



**Legislative  
Council Staff**

*Nonpartisan Services for Colorado's Legislature*

**HB 18-1400**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated April 20, 2018)

**Drafting Number:** LLS 18-1236  
**Prime Sponsors:** Rep. Becker K.; McKean  
 Sen. Scott; Jahn  
**Date:** April 30, 2018  
**Bill Status:** Senate Finance  
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**Bill Topic:** INCREASE FEES STATIONARY SOURCES AIR POLLUTANTS

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill increases the statutory fee caps for stationary sources of air pollutants by 25 percent; actual fees will be set in rule at or below these caps by the Air Quality Control Commission. This is assumed to increase ongoing state revenue and expenditures.

**Appropriation Summary:** For FY 2018-19, the bill includes an appropriation of \$1,555,293 to the Department of Public Health and Environment.

**Fiscal Note Status:** The fiscal note reflects the reengrossed bill.

**Table 1  
State Fiscal Impacts Under HB 18-1400**

		<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Revenue</b>	Cash Funds	\$1,830,860	\$2,684,609
<b>Expenditures</b>		\$1,555,293	\$1,555,293
<b>Transfers</b>		-	-
<b>TABOR Refund</b>	General Fund	\$1,830,860	\$2,684,609

**Summary of Legislation**

This bill increases the statutory fee caps for stationary sources of air pollutants by approximately 25 percent, but actual fees will be set in rule at or below these caps by the Air Quality Control Commission. Beginning January 1, 2019, until January 1, 2028, the maximum fees automatically increase by the consumer price index for Denver-Aurora-Lakewood.

**Table 2**  
**Fee Impact on Stationary Sources of Air Pollutants**

<b>Type of Fee</b>	<b>Current Fee Cap</b>	<b>Proposed Fee Cap</b>
Air pollutant emission notices	\$152.90	\$191.13
Per-ton fee for regulated pollutants	\$22.90	\$28.63
Per-ton fee for hazardous pollutants	\$152.90	\$191.13
Per-hour permit processing fee	\$76.45	\$95.56

With input from a stakeholder group of affected industries, the Air Quality Control Division in the Colorado Department of Public Health and Environment (CDPHE) is required to prioritize its use of the revenue generated by the fee increase and report on their findings in their SMART Act hearing beginning in 2019.

The 2018-19 Long Bill reduced the appropriation for the Stationary Sources Program by \$1,555,293 to a continuation level of spending based on the revenue expected from the current fees and the projected fund balance in the Stationary Services Control Fund. This bill includes a cash fund appropriation of \$1,555,293 for FY 2018-19 to the CDPHE.

**Background**

**Stationary Sources Program.** The Stationary Sources Program in the CDPHE issues permits for stationary air pollution sources in Colorado, ranging from neighborhood dry cleaners to large manufacturing facilities, and oil and gas development sites. It also oversees air quality compliance for the oil and gas industry, and maintains a computerized inventory of air pollution emissions in Colorado for billing and inventory purposes. The program is appropriated 79.8 FTE with 20 positions currently vacant.

**Consumer Price Index.** U.S. consumer price indices (CPI or CPI-U) are maintained by the Bureau of Labor Statistics (BLS) in the U.S. Department of Labor. Each index measures the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services, which in turn is developed from expenditure information provided by families and individuals on what they actually buy. Conventionally, the rate of change in the CPI is called consumer price inflation, or just inflation. Indices are maintained for geographies determined by the BLS. The Denver-Aurora-Lakewood index, which replaced the Denver-Boulder-Greeley index in 2018, is the only current BLS index for Colorado.

Consumer prices in the Denver-Boulder-Greeley region are estimated to have increased by 3.4 percent in 2017. The March 2018 Legislative Council Staff forecast projects that Denver-Aurora-Lakewood prices will grow a further 2.9 percent in 2018, 2.8 percent in 2019, and 2.6 percent in 2020.

**Assumptions**

The fiscal note assumes that the Air Quality Control Commission will increase fees up to the caps in the bill and that the new fees will go into effect October 1, 2018.

**State Revenue**

Based on the assumptions above, the bill will result in an increase in revenue to the Stationary Sources Fund in the CDPHE by up to \$1,830,860 in FY 2018-19 and \$2,684,609 in FY 2019-20. The fees for FY 2019-20 are based on an inflation increase of 2.0 percent.

**Fee impact on stationary sources of air pollutants.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the Air Quality Control Commission based on cash fund balance, estimated program costs, and the estimated number of permits subject to the fee. Table 3 below identifies the estimated fee impact of this bill.

**Table 3  
 Fee Impact on Stationary Sources of Air Pollutants**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee Increase</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 2018-19</b>	Air pollutant emission notices	\$38.23	4,767	\$182,242
	Per-ton fee for regulated pollutants	\$5.73	141,917	\$813,182
	Per-ton fee for hazardous pollutants	\$38.23	5,144	\$196,636
	Per-hour permit processing fee	\$19.11	33,428	\$638,800
			<b>FY 2018-19 Total</b>	<b>\$1,830,860</b>
<b>FY 2019-20</b>	Air pollutant emission notices	\$42.05	6,356	\$267,270
	Per-ton fee for regulated pollutants	\$6.30	189,222	1,192,099
	Per-ton fee for hazardous pollutants	\$42.05	6,858	288,379
	Per-hour permit processing fee	\$21.02	44,570	936,861
			<b>FY 2019-20 Total</b>	<b>\$2,684,609</b>

**TABOR Refund**

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

## State Expenditures

The bill is expected to increase annual expenditures for the Stationary Sources Program by \$1,555,293 from the Stationary Sources Control Fund. The fiscal note assumes that the CDPHE will fill vacant positions to restore permitting functions with those funds if sufficient revenue is received. In FY 2018-19, the CDPHE will have an increase in workload to hold a stakeholder process and to conduct rulemaking for the fee increases.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

The bill contains an appropriation of \$1,555,293 for the Department of Public Health and Environment from the Stationary Sources Control Fund.

## State and Local Government Contacts

Information Technology

Law

Public Health and Environment