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Nonpartisan Services for Colorado's Legislature

HB 19-1114

FISCAL NOTE

Drafting Number: LLS 19-0527 Date: February 5, 2019
Prime Sponsors: Rep. Catlin; Valdez D. Bill Status: House Rural Affairs
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Bill Topic: AGRICULTURE COMMISSIONER FARM PRODUCE SAFETY

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill authorizes the Department of Agriculture to enforce federal food safety regulations if federal funding is provided. The bill increases department rulemaking workload in FY 2020-21 and ongoing state revenue and expenditures beginning in FY 2021-22.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

This bill provides statutory authority for the Commissioner of Agriculture to adopt and enforce federal food safety regulations if federal funding is provided. If federal funding is not received or is rescinded, the commissioner need not implement the bill. Farms selling more than \$25,000 of produce annually are required to register with the commissioner. The bill authorizes the commissioner to enter and inspect farms, farm records, and farm facilities during regular business hours, issue cease and desist orders for violations, and impose administrative penalties. The program is subject to sunset review and repeal September 1, 2034.

Background

Currently, the U.S. Food and Drug Administration (FDA) holds the authority to regulate the science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption under the Food Safety Modernization Act's Produce Safety Rule. The Colorado Department of Agriculture (CDA) has a cooperative agreement with the FDA to implement the rule in Colorado through June 30, 2021. Under this agreement, the CDA's Produce Safety Program personnel are commissioned as officers of the FDA, which allows them to conduct program activities under FDA authority. The five-year agreement is supported by a \$3.6 million federal grant (\$0.7 million annually). The grant provides funds for two staff people, one part time staff person and 10 percent of two staff persons who perform outreach. The grant also funds travel, training, materials and supplies, legal fees, and a database.

The CDA is currently implementing federal rules regarding pesticides and worker protection standards for the Environmental Protection Agency, as well as animal food inspection rules for the FDA, through state authority.

## Assumptions

The fiscal note assumes:

- the role of CDA in implementing the FDA's food safety rule will not change in terms of inspections, but that CDA's role will be expanded in terms of enforcement of the rules;
- CDA will promulgate rules in FY 2020-21;
- the federal government will fund CDA's food safety enforcement in line with current funding; and
- that CDA food safety enforcement will begin with a new agreement with the federal government beginning July 1, 2021.

## State Revenue

This bill may increase revenue to the CDA from fines for violations of food safety law beginning in FY 2021-22. This amount will depend on the number and severity of violations and cannot be determined at this time.

## State Expenditures

The bill will increase workload for the CDA to register farms and take enforcement action when applicable beginning in FY 2021-22. The CDA will require legal services hours from the Department of Law in FY 2020-21 to develop rules in line with federal regulations and to support enforcement actions beginning in FY 2021-22. The CDA is expected to have sufficient legal services hours in its annual budget to accomplish these tasks.

## Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

## State and Local Government Contacts

Agriculture  
Law

Information Technology  
Regulatory Agencies

Judicial