

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0814.02 Thomas Morris x4218

SENATE BILL 20-204

SENATE SPONSORSHIP

Fenberg,

HOUSE SPONSORSHIP

Jackson and Caraveo,

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PROVISION OF ADDITIONAL RESOURCES TO PROTECT
102 AIR QUALITY, AND, IN CONNECTION THEREWITH, INCREASING
103 FEES AND CREATING THE AIR QUALITY ENTERPRISE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 3 of the bill creates the air quality enterprise and specifies that its revenues are exempt from the state constitution's TABOR provisions. The enterprise will conduct air quality modeling, monitoring, data assessment, and research; implement emission mitigation projects; and provide its data to the division of administration and the air quality

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

control commission in the department of public health and environment to facilitate the administration of the state's air quality laws, including by facilitating the timely issuance and effective enforcement of appropriate emission permits.

The enterprise's board of directors shall establish by rule the following enterprise fees in an amount sufficient, in aggregate, to cover its indirect and direct costs in implementing its powers and duties:

- ! A fee per ton of air pollutant; and
- ! A fee for services performed for third parties for air quality modeling, monitoring, assessment, or research and to conduct mitigation and monitoring projects.

The fees are credited to the newly created air quality enterprise cash fund.

Section 4 removes the statutory maximum for fees assessed for air pollutant emission notices, establishes a fee for fiscal year 2020-21, and allows the commission to thereafter adjust the fees by rule. **Section 5** removes the statutory maximums for annual per-ton emission fees and processing fees, establishes a fee for fiscal year 2020-21, allows the commission to thereafter adjust these fees by rule, and specifies the purposes for which these increased revenues may be spent.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the "Clean
3 Up Colorado's Air Act".

4 **SECTION 2.** In Colorado Revised Statutes, **add** 25-7-103.5 as
5 follows:

6 **25-7-103.5. Air quality enterprise - legislative declaration -
7 fund - definitions - gifts, grants, or donations - rules - report - repeal.**

8 **(1) Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND
9 DECLARES THAT:

10 (a) COLORADO FACES NUMEROUS SERIOUS AIR QUALITY
11 CHALLENGES, WHICH ARE HAVING SUBSTANTIAL ADVERSE HEALTH AND
12 ENVIRONMENTAL IMPACTS AND IMPOSE ADDITIONAL BURDENS ON
13 COLORADO'S ECONOMY;

14 (b) THE STATE OF COLORADO AND STATIONARY SOURCES SHARE

1 THE NEED FOR SCIENCE-BASED AIR QUALITY OBJECTIVES THAT WILL
2 REQUIRE REDUCTIONS IN EMISSIONS OF OZONE PRECURSORS, GREENHOUSE
3 GASES, AND OTHER POLLUTANTS;

4 (c) COLORADO RESIDENTS AND STATIONARY SOURCES WILL
5 BENEFIT FROM EFFECTIVE OZONE CONTROL STRATEGIES THAT ARE
6 INFORMED BY THE BEST AVAILABLE SCIENCE TO AVOID RECLASSIFICATION
7 OF AREAS IN ATTAINMENT TO NONATTAINMENT STATUS OR
8 RECLASSIFICATION FROM SERIOUS TO A MORE STRINGENT CATEGORY OF
9 NONATTAINMENT THAT WILL IMPOSE ADDITIONAL REGULATORY
10 REQUIREMENTS;

11 (d) ENHANCED MONITORING TECHNIQUES, CAPACITY, AND
12 TECHNOLOGY WILL PROVIDE BETTER ENVIRONMENTAL RESULTS AT A
13 LOWER LONG-TERM COST;

14 (e) AIR QUALITY MONITORING CONDUCTED BY AN ENTERPRISE IN
15 AREAS WITH A HIGH CONCENTRATION OF AIR POLLUTION SOURCES WILL
16 PROVIDE TRUSTED DATA ON THE OVERALL IMPACT OF THESE AIR
17 POLLUTION SOURCES ON NEARBY RESIDENTS, WHILE PROVIDING A
18 COST-EFFECTIVE METHOD TO MONITOR THE EMISSIONS THEY PRODUCE;

19 (f) EFFECTIVE ENGAGEMENT WITH LOCAL COMMUNITIES OFTEN
20 REQUIRES TRUSTED THIRD-PARTY DATA AND VERIFICATION REGARDING
21 EMISSIONS AND ENVIRONMENTAL PERFORMANCE;

22 (g) IMPROVED MONITORING OF EMISSIONS, BETTER ACCURACY OF
23 EMISSION INVENTORIES, AND ACCESS TO TRUSTED SCIENCE WILL ENSURE
24 A LEVEL COMPETITIVE PLAYING FIELD FOR COLORADO BUSINESSES;

25 (h) STATIONARY SOURCES IN COLORADO MAY SEEK AIR QUALITY
26 ENTERPRISE MITIGATION AND MONITORING SERVICES TO IMPLEMENT THEIR
27 OBLIGATIONS UNDER RULES AND PERMITS AND ENVIRONMENTAL, SOCIAL,

1 AND GOVERNANCE OBJECTIVES;

2 (i) EMISSION MITIGATION AND MONITORING PROGRAMS CAN BE
3 MORE EFFECTIVE WITH ECONOMIES OF SCALE AND WHEN CONDUCTED ON
4 A STATEWIDE OR REGIONAL BASIS THROUGH AN ENTERPRISE;

5 (j) THE AIR QUALITY ENTERPRISE PROVIDES BUSINESS SERVICES
6 WHEN, IN EXCHANGE FOR PAYMENT OF FEES, IT PROVIDES:

7 (I) HIGH-QUALITY, INDEPENDENT, AND TRUSTED RESEARCH AND
8 SCIENCE REGARDING EMISSIONS RATES AND INVENTORIES, MONITORING
9 AND CONTROL TECHNOLOGIES, AND HEALTH EFFECTS AND EMISSIONS
10 IMPACTS;

11 (II) HIGH-QUALITY, INDEPENDENT, AND TRUSTED DATA
12 REGARDING POLLUTANT EMISSIONS FROM STATIONARY SOURCES AND
13 CONCENTRATIONS TO REDUCE WASTE OF VALUABLE PRODUCTS AND
14 RESOURCE STREAMS, ENHANCE COST-EFFECTIVE REGULATORY
15 COMPLIANCE, AND SUPPORT CORPORATE ENVIRONMENTAL, SOCIAL, AND
16 GOVERNANCE OBJECTIVES;

17 (III) TOOLS, DATA, AND RESEARCH FOR MORE EFFECTIVE
18 COMMUNITY ENGAGEMENT ON AIR POLLUTION ISSUES;

19 (IV) OPPORTUNITIES FOR TRUSTED AND COST-EFFECTIVE
20 MITIGATION PROJECT DEVELOPMENT; AND

21 (V) ADDITIONAL BUSINESS SERVICES TO FEE PAYERS AS MAY BE
22 PROVIDED BY LAW;

23 (k) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF
24 THE STATE TO ACKNOWLEDGE THAT, BY PROVIDING THE BUSINESS
25 SERVICES SPECIFIED IN THIS SECTION, THE ENTERPRISE ENGAGES IN AN
26 ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD
27 AND THEREFORE OPERATES AS A BUSINESS;

1 (l) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
2 SUPREME COURT IN *NICHOLL v. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
3 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
4 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
5 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
6 ASSEMBLY THAT THE REVENUES COLLECTED BY THE ENTERPRISE ARE FEES,
7 NOT TAXES, BECAUSE THE ENTERPRISE FEES ARE:

8 (I) IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE
9 ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS SERVICES
10 SPECIFIED IN THIS SECTION TO FEE PAYERS; AND

11 (II) COLLECTED AT RATES THAT ARE REASONABLY CALCULATED
12 BASED ON THE BENEFITS RECEIVED BY THOSE ENTITIES AND THE COSTS OF
13 THE SERVICES THE ENTERPRISE PROVIDES; AND

14 (m) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR
15 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE
16 REVENUE FROM THE FEES COLLECTED BY THE ENTERPRISE IS NOT STATE
17 FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE
18 REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT
19 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED
20 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS
21 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(D).

22 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
23 OTHERWISE REQUIRES:

24 (a) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
25 ENTERPRISE.

26 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
27 AND ENVIRONMENT.

1 (c) "ENTERPRISE" MEANS THE AIR QUALITY ENTERPRISE CREATED
2 IN SUBSECTION (3) OF THIS SECTION.

3 (d) "ENTERPRISE FEE" OR "FEE" MEANS MONEY COLLECTED
4 THROUGH FEES AUTHORIZED BY SUBSECTION (4) OF THIS SECTION.

5 (e) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
6 THE DEPARTMENT.

7 (f) "FUND" MEANS THE AIR QUALITY ENTERPRISE CASH FUND
8 CREATED IN SUBSECTION (4) OF THIS SECTION.

9 (g) "GREENHOUSE GAS" HAS THE MEANING ESTABLISHED IN
10 SECTION 25-7-140 (6).

11 (3) **Enterprise.** (a) THERE IS HEREBY CREATED IN THE
12 DEPARTMENT THE AIR QUALITY ENTERPRISE. THE ENTERPRISE IS AND
13 OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT
14 FOR THE PURPOSE OF CONDUCTING THE BUSINESS ACTIVITIES SPECIFIED IN
15 THIS SECTION. THE ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS
16 DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF TRANSFERRED TO
17 THE DEPARTMENT BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION
18 24-1-105.

19 (b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
20 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT
21 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS
22 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
23 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
24 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE
25 ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
26 CONSTITUTION.

27 (c) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN

1 THIS SECTION, THE ENTERPRISE'S POWERS AND DUTIES ARE TO:

2 (I) CONDUCT AIR QUALITY MODELING, MONITORING, ASSESSMENT,
3 DATA ANALYSIS, AND RESEARCH, WHICH MAY INCLUDE OBTAINING,
4 ANALYZING, AND REPORTING PERMITTING AND ENFORCEMENT DATA;
5 HEALTH EFFECTS DATA; EMISSION DATA; AMBIENT AIR QUALITY,
6 VISIBILITY, AND METEOROLOGICAL SAMPLING DATA; AND SIMILAR DATA.

7 THE BOARD SHALL PRIORITIZE THESE ACTIVITIES BASED ON A RESEARCH
8 PROJECT'S ABILITY TO PROVIDE INFORMATION THAT WILL: SUPPORT
9 TANGIBLE PROGRESS TOWARD AIDING FEE PAYERS' OBLIGATIONS AND
10 COMMITMENTS TO REDUCING AIR POLLUTANTS EMITTED BY THE FEE
11 PAYERS; SUPPORT FEE PAYERS IN ATTAINING STANDARDS AND
12 HEALTH-BASED OR ENVIRONMENTAL GUIDELINES; AND ASSESS PUBLIC
13 HEALTH THAT MAY BE AFFECTED BY FEE PAYER EMISSIONS. THE BOARD
14 SHALL ENSURE THAT ALL RESEARCH CONDUCTED BY THE ENTERPRISE AND
15 ITS CONTRACTORS IS IMPARTIAL AND MEETS HIGH STANDARDS FOR
16 SCIENTIFIC RIGOR. THE BOARD SHALL CONSULT WITH FEE PAYERS,
17 ATMOSPHERIC SCIENCE AND PUBLIC HEALTH EXPERTS, AND COMMUNITY
18 STAKEHOLDERS ON FORMULATING RESEARCH PRIORITIES AND SHALL
19 SPECIFICALLY PRIORITIZE:

20 (A) ENHANCED MONITORING PROJECTS, INCLUDING THE
21 PLACEMENT OF PERMANENT MONITORING STATIONS USING GAS
22 CHROMATOGRAPHY OR PROVEN, STATE-OF-THE-ART TECHNOLOGY TO
23 MEASURE, IN REAL TIME OR NEARLY SO, NITROGEN OXIDES, VOLATILE
24 ORGANIC COMPOUNDS, OZONE, METHANE, AND PARTICULATES AT KEY
25 LOCATIONS UPWIND, DOWNWIND, AND WITHIN HIGH EMISSION REGIONS;

26 (B) REGULAR AERIAL SURVEYS AND OBSERVATIONS TO ASSIST
27 LEAK DETECTION AND REPAIR ACTIVITIES, IMPROVE THE ACCURACY OF

1 EMISSION INVENTORIES, AND CREATE A BETTER UNDERSTANDING OF
2 REGIONAL EMISSION PROFILES; AND

3 (C) ASSESSING LOCAL EXPOSURES TO AND THE HEALTH IMPACTS
4 OF NEARBY AIR TOXICS SOURCES;

5 (II) ESTABLISH THE ENTERPRISE FEES SPECIFIED IN SUBSECTION (4)
6 OF THIS SECTION BY RULE AND COLLECT THE FEES;

7 (III) ALLOCATE ENTERPRISE REVENUES TO THE SERVICES
8 DESCRIBED IN THIS SECTION AND CONTRACT FOR ANY NECESSARY
9 SERVICES FROM STATE AGENCIES OR OTHER PARTIES, INCLUDING
10 UNIVERSITIES, PRIVATE ENTITIES, AND FEDERAL LABORATORIES;

11 (IV) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE
12 ENTERPRISE TO IMPLEMENT ITS POWERS AND DUTIES;

13 (V) RECEIVE FEES OR OTHER PAYMENTS, INCLUDING THOSE
14 NEGOTIATED TO CONDUCT EMISSION MITIGATION PROJECTS AND CUSTOM
15 MONITORING OR TECHNOLOGY DEVELOPMENT OR EVALUATION PROJECTS;
16 AND

17 (VI) ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS,
18 AND LEGAL COUNSEL, INCLUDING INSTITUTIONS OF HIGHER EDUCATION,
19 PUBLIC RESEARCH LABORATORIES, THE DEPARTMENT, AND THE ATTORNEY
20 GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE,
21 ADVICE, AND OTHER GOODS AND SERVICES, INCLUDING INFORMATION
22 TECHNOLOGY, RELATED TO THE CONDUCT OF THE AFFAIRS OF THE
23 ENTERPRISE WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES
24 101 TO 112 OF TITLE 24. THE BOARD SHALL ENCOURAGE DIVERSITY IN
25 APPLICANTS FOR CONTRACTS AND SHALL GENERALLY AVOID USING
26 SINGLE-SOURCE BIDS. THE DEPARTMENT MAY PROVIDE OFFICE SPACE,
27 ADMINISTRATIVE SERVICES, AND STAFF PURSUANT TO A CONTRACT

1 ENTERED INTO PURSUANT TO THIS SUBSECTION (3)(c)(VI). THE BOARD
2 MAY, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OR THE
3 EXECUTIVE DIRECTOR'S DESIGNEE, HIRE SUCH OTHER STAFF AS IT DEEMS
4 NECESSARY TO PROVIDE ITS BUSINESS SERVICES.

5 (d) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS. THE
6 BOARD CONSISTS OF THE EXECUTIVE DIRECTOR OR THE EXECUTIVE
7 DIRECTOR'S DESIGNEE, TWO MEMBERS OF THE COMMISSION APPOINTED BY
8 THE GOVERNOR, AND FOUR GOVERNOR APPOINTEES WHO ARE HIGHLY
9 QUALIFIED AND PROFESSIONALLY ACTIVE OR ENGAGED IN THE CONDUCT
10 OF SCIENTIFIC RESEARCH, INCLUDING AT LEAST TWO WHO ARE EXPERTS IN
11 ATMOSPHERIC OR AIR QUALITY MODELING, MONITORING, ASSESSMENT,
12 AND RESEARCH AND ONE MEMBER WHO IS A TOXICOLOGIST,
13 EPIDEMIOLOGIST, PATHOLOGIST, PULMONOLOGIST, CARDIOLOGIST, OR
14 EXPERT IN A SIMILAR FIELD RELATED TO THE PUBLIC HEALTH OR
15 ENVIRONMENTAL EFFECTS OF AIR POLLUTANTS. TO THE EXTENT
16 PRACTICABLE, THE GOVERNOR APPOINTEES MUST BE INDIVIDUALS WHO
17 HAVE A RECORD OF PEER-REVIEWED PUBLICATIONS AND WHO ARE
18 AFFILIATED WITH, CURRENTLY HOLD, OR HAVE HELD ACADEMIC OR
19 EQUIVALENT APPOINTMENTS AT UNIVERSITIES, FEDERAL LABORATORIES,
20 OR OTHER RESEARCH INSTITUTIONS.

21 (e) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S
22 DESIGNEE, IN THE CAPACITY OF A MEMBER OF THE BOARD, SHALL CALL THE
23 FIRST MEETING OF THE BOARD. THE BOARD SHALL ELECT A CHAIR FROM
24 AMONG ITS MEMBERS TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS,
25 AS DETERMINED BY THE BOARD. THE BOARD SHALL MEET AT LEAST
26 QUARTERLY, AND THE CHAIR MAY CALL ADDITIONAL MEETINGS AS
27 NECESSARY FOR THE BOARD TO COMPLETE ITS DUTIES. THE APPOINTED

1 MEMBERS OF THE BOARD ARE ENTITLED TO RECEIVE FROM MONEY IN THE
2 FUND A PER DIEM ALLOWANCE OF FIFTY DOLLARS FOR EACH DAY SPENT
3 ATTENDING OFFICIAL BOARD MEETINGS.

4 (f) THE TERM OF OFFICE OF APPOINTED BOARD MEMBERS IS THREE
5 YEARS; EXCEPT THAT THE INITIAL TERMS OF TWO BOARD MEMBERS AS
6 DETERMINED BY THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S
7 DESIGNEE ARE TWO YEARS.

8 (4) **Fund - fees.** (a) THERE IS HEREBY CREATED IN THE STATE
9 TREASURY THE AIR QUALITY ENTERPRISE CASH FUND. THE FUND CONSISTS
10 OF MONEY CREDITED TO THE FUND PURSUANT TO THIS SUBSECTION (4) AND
11 ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR
12 TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL
13 INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF
14 MONEY IN THE FUND TO THE FUND.

15 (b) THE BOARD SHALL ESTABLISH BY RULE ENTERPRISE FEES,
16 WHICH MAY INCLUDE THE FOLLOWING ENTERPRISE FEES IN AN AMOUNT
17 THAT, IN THE AGGREGATE, REFLECTS THE VALUE OF THE SERVICES
18 PROVIDED:

19 (I) A FEE PER TON OF AIR POLLUTANT EMITTED BY A STATIONARY
20 SOURCE ANNUALLY, WHICH FEE MAY VARY BASED ON THE AIR POLLUTANT
21 RELATIVE TO THE EXTENT OF RESEARCH OR MITIGATION NEEDS
22 ASSOCIATED WITH THE POLLUTANT;

23 (II) A FEE FOR CUSTOM OR ADDITIONAL AIR QUALITY MODELING,
24 MONITORING, ASSESSMENT, OR RESEARCH SERVICES; AND

25 (III) A FEE FOR EMISSION MITIGATION PROJECT SERVICES SOUGHT
26 BY FEE PAYERS.

27 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE

1 ENTERPRISE TO ACCOMPLISH THE PURPOSES SET FORTH IN SUBSECTION
2 (3)(c) OF THIS SECTION, INCLUDING TO:

3 (I) CONDUCT AND BROADLY DISSEMINATE AIR QUALITY MODELING,
4 MONITORING, ASSESSMENT, DATA ANALYSIS, AND RESEARCH;

5 (II) PROVIDE HIGH-QUALITY, INDEPENDENT, AND TRUSTED
6 RESEARCH AND DEVELOPMENT SERVICES REGARDING EMISSIONS RATES
7 AND INVENTORIES, MONITORING AND CONTROL TECHNOLOGIES, AND
8 HEALTH EFFECTS AND EMISSIONS IMPACTS;

9 (III) PROVIDE HIGH-QUALITY, INDEPENDENT, AND TRUSTED DATA
10 REGARDING POLLUTANT EMISSIONS FROM STATIONARY SOURCES AND
11 CONCENTRATIONS TO REDUCE WASTE OF VALUABLE PRODUCTS AND
12 RESOURCE STREAMS, ENHANCE COST-EFFECTIVE REGULATORY
13 COMPLIANCE, AND SUPPORT CORPORATE ENVIRONMENTAL, SOCIAL, AND
14 GOVERNANCE OBJECTIVES;

15 (IV) PROVIDE TRUSTED AND COST-EFFECTIVE MITIGATION PROJECT
16 SERVICES TO MEET CORPORATE SUSTAINABILITY, SETTLEMENT, AND OTHER
17 OBJECTIVES;

18 (V) PROVIDE ADDITIONAL BUSINESS SERVICES TO FEE PAYERS AS
19 MAY BE PROVIDED BY LAW; AND

20 (VI) PROVIDE ITS DATA TO FEE PAYERS, THE DIVISION, AND THE
21 COMMISSION TO FACILITATE THE FEE PAYERS' EMISSIONS MITIGATION AND
22 COMPLIANCE EFFORTS AND THE DIVISION'S AND COMMISSION'S
23 ENFORCEMENT AND ADMINISTRATION OF THIS ARTICLE 7.

24 (d) THE ENTERPRISE SHALL DEDICATE A MEANINGFUL PORTION OF
25 ITS ANNUAL REVENUES TOWARD COMPETITIVE GRANTS TO CONDUCT
26 HIGHLY QUALIFIED, PEER-REVIEWED RESEARCH RELATED TO RESEARCH
27 PRIORITIES IDENTIFIED BY THE BOARD. THE BOARD SHALL PUBLISH THE

1 RESEARCH PRODUCTS AND MAKE THEM PUBLICLY AVAILABLE.

2 (e) (I) ON JULY 1, 2020, THE STATE TREASURER SHALL TRANSFER
3 INTO THE FUND AN AMOUNT OF MONEY FROM THE GENERAL FUND TO
4 PROVIDE START-UP FUNDING FOR THE ENTERPRISE. BY JULY 1, 2023, THE
5 STATE TREASURER SHALL TRANSFER FROM THE FUND INTO THE GENERAL
6 FUND AN AMOUNT OF MONEY TO REPAY THE START-UP FUNDING PLUS
7 INTEREST AT AN ANNUAL RATE OF THREE PERCENT. BECAUSE THIS
8 TRANSFER OF GENERAL FUND MONEY TO THE FUND IS REPAYED, THE
9 GENERAL ASSEMBLY DETERMINES THAT THE TRANSFER IS NOT A GRANT
10 FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
11 OR AS DEFINED IN SECTION 24-77-102 (7).

12 (II) THIS SUBSECTION (4)(e) IS REPEALED, EFFECTIVE SEPTEMBER
13 1, 2025.

14 (f) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,
15 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
16 THIS SECTION.

17 (5) **Report.** NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
18 BOARD SHALL PROVIDE A REPORT TO THE COMMITTEES OF REFERENCE OF
19 THE GENERAL ASSEMBLY WITH JURISDICTION OVER PUBLIC HEALTH AND
20 THE ENVIRONMENT BY DECEMBER 1 OF EACH YEAR. THE REPORT MUST
21 INCLUDE SUMMARIES OF THE BOARD'S PRIORITIZATION OF RESEARCH
22 NEEDS; MODELING, MONITORING, ASSESSMENT, AND RESEARCH
23 ACCOMPLISHED BY THE ENTERPRISE; THE ENTERPRISE'S COMPLETED,
24 ONGOING, AND PLANNED EMISSION MITIGATION SERVICES; USE OF THE
25 FUND; ENTERPRISE FEES; AND THE VALUE OF BUSINESS SERVICES PROVIDED
26 TO FEE PAYERS THROUGH THE OPERATION OF THE ENTERPRISE.

27 **SECTION 3.** In Colorado Revised Statutes, 25-7-114.1, **amend**

1 (6)(a) as follows:

2 **25-7-114.1. Air pollutant emission notices - rules.** (6) (a) FOR
3 STATE FISCAL YEAR 2020-21, the ~~maximum~~ fee for filing an air pollutant
4 emission notice or AN amendment ~~thereto~~ TO THE NOTICE under this
5 section is ~~one hundred ninety-one dollars and thirteen cents; except that,~~
6 ~~on each January 1 from 2019 to 2028, the maximum fee is automatically~~
7 ~~adjusted based on the annual percentage change in the United States~~
8 ~~department of labor, bureau of labor statistics, consumer price index for~~
9 ~~Denver-Aurora-Lakewood for all items and all urban consumers, or its~~
10 ~~successor index~~ TWO HUNDRED EIGHTEEN DOLLARS. THEREAFTER, the
11 commission ~~shall set~~ MAY ADJUST the ~~actual~~ fee by rule ~~Beginning on~~
12 ~~July 1, 2018, the commission, by rule, may periodically adjust the fee up~~
13 ~~to the maximum fee~~ TO COVER THE INDIRECT AND DIRECT COSTS
14 REQUIRED TO DEVELOP AND ADMINISTER THE PROGRAMS ESTABLISHED
15 PURSUANT TO THIS ARTICLE 7. The money collected pursuant to this
16 ~~section~~ SUBSECTION (6)(a) shall be transmitted to the state treasurer, who
17 shall credit it to the stationary sources control fund created in section
18 25-7-114.7 (2)(b)(I).

19 **SECTION 4.** In Colorado Revised Statutes, 25-7-114.7, **amend**
20 (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III); and **add** (2)(b)(III) as follows:

21 **25-7-114.7. Emission fees - fund - rules - definition - repeal.**

22 (2) (a) (I) The commission shall designate by rule those classes of
23 sources of air pollution that are exempt from the requirement to pay an
24 annual emission fee. Every owner or operator of an air pollution source
25 not otherwise exempt in accordance with such commission rules shall pay
26 an annual fee as follows:

27 (A) For STATE fiscal ~~years 2018-19 and thereafter, the maximum~~

1 YEAR 2020-21, THE fee is ~~twenty-eight dollars and sixty-three cents~~
2 THIRTY-THREE DOLLARS per ton of regulated pollutant reported in the
3 most recent air pollution emission notice on file with the division. ~~except~~
4 ~~that, on each January 1 from 2019 to 2028, the maximum fee is~~
5 ~~automatically adjusted based on the annual percentage change in the~~
6 ~~United States department of labor, bureau of labor statistics, consumer~~
7 ~~price index for Denver-Aurora-Lakewood for all items and all urban~~
8 ~~consumers, or its successor index.~~ THEREAFTER, the commission shall set
9 MAY ADJUST the actual fee by rule ~~Beginning on July 1, 2018, the~~
10 ~~commission, by rule, may periodically adjust the fee up to the maximum~~
11 ~~fee~~ TO COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP
12 AND ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS
13 ARTICLE 7.

14 (B) For STATE fiscal ~~years 2018-19 and thereafter~~ YEAR 2020-21,
15 in addition to the annual fee set forth in subsection (2)(a)(I)(A) of this
16 section, for hazardous air pollutants, including ozone-depleting
17 compounds, ~~a maximum~~ AN annual fee of ~~one hundred ninety-one dollars~~
18 ~~and thirteen cents~~ TWO HUNDRED EIGHTEEN DOLLARS per ton. ~~except that,~~
19 ~~on each January 1 from 2019 to 2028, the maximum fee is automatically~~
20 ~~adjusted based on the annual percentage change in the United States~~
21 ~~department of labor, bureau of labor statistics, consumer price index for~~
22 ~~Denver-Aurora-Lakewood for all items and all urban consumers, or its~~
23 ~~successor index.~~ THEREAFTER, the commission shall set MAY ADJUST the
24 actual fee by rule ~~Beginning on July 1, 2018, the commission, by rule,~~
25 ~~may periodically adjust the fee up to the maximum fee~~ TO COVER THE
26 INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE
27 PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7.

1 (III) Every owner or operator subject to the requirements to pay
2 fees set forth in subsection (2)(a)(I) of this section shall also pay a
3 processing fee for the costs of processing any application other than an air
4 pollution emission notice under this article 7. Every significant user of
5 prescribed fire, including federal facilities, submitting a planning
6 document to the commission pursuant to section 25-7-106 (8)(b) shall pay
7 a fee for costs of evaluating the documents. For STATE fiscal year
8 ~~2018-19~~ 2020-21, the division shall assess a fee for work it performs, up
9 to a maximum of thirty hours at a ~~maximum~~ rate of ~~ninety-five dollars~~
10 ~~and fifty-six cents~~ ONE HUNDRED NINE DOLLARS per hour. ~~except that, on~~
11 ~~each January 1 from 2019 to 2028, the maximum fee is automatically~~
12 ~~adjusted based on the annual percentage change in the United States~~
13 ~~department of labor, bureau of labor statistics, consumer price index for~~
14 ~~Denver-Aurora-Lakewood for all items and all urban consumers, or its~~
15 ~~successor index.~~ THEREAFTER, the commission shall set MAY ADJUST the
16 actual fee by rule ~~Beginning on July 1, 2018, the commission, by rule,~~
17 ~~may periodically adjust the fee up to the maximum fee~~ TO COVER THE
18 INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE
19 PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7. If the division
20 requires more than thirty hours to process the application or evaluate the
21 prescribed fire-related planning documents, the ~~fee paid by the applicant~~
22 ~~must not exceed three thousand seven hundred fifty dollars unless the~~
23 ~~division has informed the source that the respective billings may exceed~~
24 ~~three thousand seven hundred fifty dollars and has provided~~ DIVISION
25 SHALL PROVIDE the STATIONARY source with an estimate of what the
26 actual charges may be ~~prior to commencing the work~~ BEFORE WORKING
27 MORE THAN THIRTY HOURS.

1 (b) (III) THE DIVISION SHALL EXPEND THE PORTION OF THE FEE
2 REVENUE COLLECTED PURSUANT TO SUBSECTIONS (2)(a)(I)(A),
3 (2)(a)(I)(B), AND (2)(a)(III) OF THIS SECTION AND SECTION 25-7-114.1
4 (6)(a) ATTRIBUTABLE TO THE INCREASES AUTHORIZED IN 2020 BY SENATE
5 BILL 20-_____ FOR THE FOLLOWING PURPOSES:

6 (A) ENSURING THAT REQUIREMENTS IMPOSED BY RULES TO
7 MINIMIZE EMISSIONS ARE INCLUDED IN PERMITS AND COMPLIED WITH;

8 (B) DEPLOYING MORE RESOURCES TO FIND, AND CAUSE OIL AND
9 GAS OPERATORS TO REPAIR, LEAKS AND RELEASES OF HYDROCARBONS
10 SUCH AS BENZENE THAT CONTRIBUTE TO OZONE NONATTAINMENT AND
11 HUMAN HEALTH RISKS;

12 (C) INCREASING COMPLIANCE BY OIL AND GAS SOURCES WITH ALL
13 APPLICABLE AIR QUALITY REQUIREMENTS;

14 (D) INCREASING THE NUMBER OF INSPECTIONS AND ENFORCEMENT
15 ACTIONS TAKEN BY THE DIVISION;

16 (E) EXPANDING THE DIVISION'S CAPACITY TO CONDUCT
17 MONITORING OF OIL AND GAS INDUSTRY EMISSIONS;

18 (F) DEVELOPING NEW EMISSION CONTROL STRATEGIES;

19 (G) EXPANDING THE DIVISION'S CAPACITY TO QUICKLY RESPOND
20 TO AND BETTER UNDERSTAND PUBLIC HEALTH ISSUES THAT ARE RELATED
21 TO EXPOSURE TO AIR TOXICS, SUCH AS BENZENE AND OTHER VOLATILE
22 ORGANIC COMPOUNDS; AND

23 (H) IMPROVING THE DIVISION'S COMPLAINT MANAGEMENT
24 SYSTEMS AS THEY RELATE TO AIR QUALITY AND ASSOCIATED HEALTH
25 IMPACTS.

26 **SECTION 5. Effective date - applicability.** This act takes effect
27 July 1, 2020, and applies to fees paid on or after said date.

1 **SECTION 6. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety.