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Revised Fiscal Note

(replaces fiscal note dated March 21, 2023)

Drafting Number: LLS 23-0327 Date: April 11, 2023
Prime Sponsors: Sen. Priola; Roberts Bill Status: Senate Appropriations
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Bill Topic: SUNSET PESTICIDE APPLICATORS' ACT

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

Sunset Bill. This bill continues the regulation of pesticide applicators in the Department of Agriculture, which is scheduled to repeal on September 1, 2023. State fiscal impacts include both increased revenue and expenditures from changes to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2034.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$72,150 to the Department of Agriculture.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the Senate Agriculture and Natural Resources Committee

Table 1. State Fiscal Impacts Under SB 23-192^1

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue (General Fund, Cash Funds, Total), Expenditures (Cash Funds), Other Budget Impacts (TABOR Refund), and Continuing Impacts (Revenue, Expenditures, Other Budget Impacts).

^1 Table 1 shows the new impacts resulting from changes to the program under the bill and the continuing impacts from extending the program beyond its current repeal date. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.

Summary of Legislation

The bill continues the regulation of pesticide applicators for 11 years from September 1, 2023, to September 1, 2034. The bill also:

- updates definitions to align with federal law;
- allows a person to list a principal residential address; employment address; and school address on the pesticide-sensitive registry and requires the applicator to notify individuals who list this information on the registry of the application of pesticide;
- requires the Colorado Department of Agriculture (CDA) to develop a searchable database of all properties within 250 feet of any residential property of a pesticide-sensitive person;
- increases the maximum civil penalty to \$2,500 for a first violation and \$5,000 for a second;
- requires civil penalties to be deposited into the General Fund rather than the Plant Health, Pest Control and Environmental Protection Cash Fund;
- requires the Colorado Department of Agriculture (CDA) to publish and provide information on which pesticide applicators are credentialed;
- requires the CDA to develop an online complaint process;
- details the term lengths and the maximum terms for members of the Advisory Committee to the State Agricultural Commission; and
- details what a local government must file with the CDA if the government adopts an ordinance concerning pesticides.

Background

The CDA currently regulates individual and businesses who use or supervises the use of pesticides or pesticide devices. The full sunset report and recommendations can be found [here](#).

Continuing Program Impacts

Based on the 2022 sunset report, the Department of Agriculture is expected to have revenue of \$1.4 million and expenditures of \$2.5 million to administer the pesticide applicator program. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2024-25. This continuing revenue is subject to the state TABOR limits. If this bill is not enacted, the program will end on September 1, 2023, followed by a wind-down period, and state revenue and expenditures will decrease starting in FY 2024-25 by the amounts shown in Table 1. The changes to the program that drive additional revenue and costs are discussed in the State Revenue and State Expenditures sections below.

State Revenue

Starting in FY 2023-24, state revenue will be impacted in two ways. First, state revenue to the Plant Health, Pest Control, and Environmental Protection Cash Fund will decrease by \$14,000 and General Fund revenue will increase by the same amount due to civil fines being deposited in the General Fund instead of the cash fund. In addition, revenue to the General Fund will increase to the extent the CDA issue larger fines due to the increased allowable penalty. It is unknown how fine amounts will increase under the bill. Fine revenue is subject to TABOR.

State Expenditures

In FY 2023-24 only, expenditures from the Plant Health, Pest Control, and Environmental Protection Cash Fund will increase by \$72,150 to update computer systems to post credential information online, add a search function, add school and business addresses for a registrant in the pesticide-sensitive registry, and to create a searchable database of homes with 250 feet of a pesticide-sensitive person. This fiscal note estimates that the upgrades for credential information and adding addresses will take 160 hours at \$195 per hour, and creation of a database will require 150 hours of programming at \$123 per hour and 250 hours of GIS programming at \$90 per hour.

In addition, workload to CDA will increase to create an online complaint process. The department currently utilizes and pays for a platform that can implement an online complaint process; therefore, workload to develop and implement any forms and to maintain any changes can be accomplished within existing appropriations.

Local Government

Starting in FY 2023-24, workload to local governments will increase to file the necessary notices to the CDA when the local government adopts an ordinance concerning pesticides.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$72,150 from the Plant Health, Pest Control, an Environmental Protection Cash Fund to the Department of Agriculture, to be reappropriated to the Office of Information Technology.

State and Local Government Contacts

Agriculture
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