

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0275.01 Thomas Morris x4218

HOUSE BILL 20-1143

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HOUSE SPONSORSHIP

**Jackson and Gonzales-Gutierrez**, Arndt, Caraveo, Coleman, Cutter, Exum, Herod, Hooton, Jaquez Lewis, Kipp, McLachlan, Melton, Singer, Sirota, Snyder, Titone, Valdez A.

SENATE SPONSORSHIP

Winter,

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House Committees

Energy & Environment  
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A BILL FOR AN ACT

101 CONCERNING ADDITIONAL PUBLIC HEALTH PROTECTIONS REGARDING  
102 ALLEGED ENVIRONMENTAL VIOLATIONS, AND, IN CONNECTION  
103 THEREWITH, RAISING THE MAXIMUM FINES FOR AIR QUALITY  
104 AND WATER QUALITY VIOLATIONS AND ALLOCATING THE FINES  
105 TO ENVIRONMENTAL MITIGATION PROJECTS.

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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>.)*

Current state law sets the maximum civil fine for most air quality violations at \$15,000 per day and most water quality violations at \$10,000

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.

per day, but federal law allows the federal environmental protection agency to assess a maximum daily fine per violation of \$47,357 for these violations. **Sections 2 and 4** of the bill raise the maximum fine to \$47,357 per day and direct the air quality control commission and the water quality control commission in the department of public health and environment (department) to annually adjust the maximum fine based on changes in the consumer price index.

Current law allocates all water quality fines to the water quality improvement fund; **section 4** authorizes the use of money in that fund to pay for projects addressing impacts to environmental justice communities. Section 4 also extends the repeal date for the water quality improvement fund to September 1, 2025.

Current law allocates all air quality fines to the general fund; **section 3** allocates them to the newly created community impact cash fund. Section 3 also:

- ! Specifies that the department is to use money in the community impact cash fund for environmental mitigation projects (EMPs);
- ! Defines an EMP as a project that avoids, minimizes, or mitigates the adverse effects of a violation or alleged violation of the air quality or water quality laws;
- ! Creates the environmental justice advisory board to recommend EMPs in response to violations or alleged violations that affect environmental justice communities; and
- ! Creates an environmental justice ombudsperson position within the department, who serves as chief staff to the advisory board and advocates for environmental justice communities.

Section 3 also requires the department to post proposed EMPs on the department's website in a format that allows the public to submit comments on the proposed EMP, not approve an EMP until at least 45 days after the EMP has been posted on its website, and include a description of all approved EMPs in its departmental SMART Act presentations.

**Section 1** sunsets the advisory board on September 1, 2025.

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

2 **SECTION 1.** In Colorado Revised Statutes, 2-3-1203, **add**  
3 (16)(a)(VI) as follows:

4 **2-3-1203. Sunset review of advisory committees - legislative**

1 **declaration - definition - repeal.** (16) (a) The following statutory  
2 authorizations for the designated advisory committees will repeal on  
3 September 1, 2025:

4 (VI) THE ENVIRONMENTAL JUSTICE ADVISORY BOARD CREATED IN  
5 SECTION 25-7-129 (3).

6 **SECTION 2.** In Colorado Revised Statutes, 25-7-122, **amend** (1)  
7 introductory portion, (1)(b), and (1)(d) as follows:

8 **25-7-122. Civil penalties - rules.** (1) Upon application of the  
9 division, penalties as determined under this ~~article~~ ARTICLE 7 may be  
10 collected by the division by action instituted in the district court for the  
11 district in which is located the air pollution source affected in accordance  
12 with the following provisions:

13 (b) Any person who violates any requirement or prohibition of an  
14 applicable emission control regulation of the commission, the state  
15 implementation plan, a construction permit, any provision for the  
16 prevention of significant deterioration under part 2 of this ~~article~~ ARTICLE  
17 7, any provision related to attainment under part 3 of this ~~article~~ ARTICLE  
18 7, or any provision of section 25-7-105, 25-7-106, 25-7-106.3,  
19 25-7-106.8, ~~25-7-106.9~~, 25-7-108, 25-7-109, 25-7-111, 25-7-112,  
20 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, 25-7-206, 25-7-403,  
21 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405, 42-4-406,  
22 42-4-407, 42-4-409, 42-4-410, or 42-4-414, ~~C.R.S., shall be~~ IS subject to  
23 a civil penalty of not more than ~~fifteen~~ FORTY-SEVEN thousand THREE  
24 HUNDRED FIFTY-SEVEN dollars per day for each day of such violation;  
25 except that:

26 (I) BEGINNING IN 2021, THE COMMISSION SHALL, BY RULE,  
27 ANNUALLY ADJUST THE AMOUNT OF THE MAXIMUM CIVIL PENALTY BASED

1 ON THE PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF  
2 LABOR'S BUREAU OF LABOR STATISTICS DENVER-AURORA-LAKEWOOD  
3 CONSUMER PRICE INDEX FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR  
4 ITS SUCCESSOR INDEX; AND

5 (II) ~~There shall be no~~ Civil penalties SHALL NOT BE assessed or  
6 collected against persons who violate emission regulations promulgated  
7 by the commission for the control of odor until a compliance order issued  
8 pursuant to section 25-7-115 and ordering compliance with the odor  
9 regulation has been violated.

10 (d) Any person who violates any requirement, prohibition, or  
11 order respecting an operating permit issued pursuant to section  
12 25-7-114.3, including ~~but not limited to~~ failure to obtain such a permit,  
13 ~~or~~ to operate in compliance with any term or condition ~~thereof~~ OF THE  
14 PERMIT, or to pay the permit fee required under section 25-7-114.7 (2), or  
15 commits a violation of section 25-7-109.6 ~~shall be~~ IS subject to a civil  
16 penalty of not more than ~~fifteen~~ FORTY-SEVEN thousand THREE HUNDRED  
17 FIFTY-SEVEN dollars per day for each violation; EXCEPT THAT, BEGINNING  
18 IN 2021, THE COMMISSION SHALL, BY RULE, ANNUALLY ADJUST THE  
19 AMOUNT OF THE MAXIMUM CIVIL PENALTY BASED ON THE PERCENTAGE  
20 CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF  
21 LABOR STATISTICS CONSUMER PRICE INDEX FOR  
22 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
23 CONSUMERS, OR ITS SUCCESSOR INDEX.

24 **SECTION 3.** In Colorado Revised Statutes, **amend** 25-7-129 as  
25 follows:

26 **25-7-129. Disposition of fines - community impact cash fund**  
27 **- environmental justice ombudsperson - environmental justice**

1 **advisory board - environmental mitigation projects - definitions -**

2 **repeal. (1) Community impact cash fund. (a)** All receipts from

3 penalties or fines collected under ~~the provisions of~~ sections 25-7-115,

4 25-7-122, and 25-7-123 shall be credited to the ~~general fund of the state~~

5 COMMUNITY IMPACT CASH FUND, WHICH IS HEREBY CREATED IN THE STATE

6 TREASURY. THE FUND CONSISTS OF MONEY CREDITED TO THE FUND

7 PURSUANT TO THIS SUBSECTION (1) AND ANY OTHER MONEY THAT THE

8 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE

9 STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED

10 FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE

11 FUND.

12 (b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL

13 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR

14 ITS DIRECT AND INDIRECT COSTS IN IMPLEMENTING ENVIRONMENTAL

15 MITIGATION PROJECTS AS SPECIFIED IN THIS SECTION, INCLUDING COSTS

16 ASSOCIATED WITH THE ENVIRONMENTAL JUSTICE OMBUDSPERSON

17 POSITION CREATED IN SUBSECTION (2) OF THIS SECTION AND THE

18 ENVIRONMENTAL JUSTICE ADVISORY BOARD CREATED IN SUBSECTION (3)

19 OF THIS SECTION.

20 (2) **Environmental justice ombudsperson.** THERE IS HEREBY

21 CREATED IN THE DEPARTMENT AN ENVIRONMENTAL JUSTICE

22 OMBUDSPERSON. THE OMBUDSPERSON SHALL ADVOCATE WITHIN THE

23 DEPARTMENT FOR ENVIRONMENTAL JUSTICE COMMUNITIES AND SERVE AS

24 CHIEF STAFF TO THE BOARD AND A CENTRALIZED POINT OF CONTACT FOR

25 ENVIRONMENTAL JUSTICE COMMUNITIES.

26 (3) **Environmental justice advisory board. (a)** THERE IS

27 HEREBY CREATED IN THE DEPARTMENT THE ENVIRONMENTAL JUSTICE

1       ADVISORY BOARD.

2               (b) (I) THE BOARD CONSISTS OF THE OMBUDSPERSON, WHO SERVES  
3       EX OFFICIO AS A NONVOTING MEMBER OF THE BOARD, THREE MEMBERS  
4       APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OF WHOM  
5       ONE MUST BE A RESIDENT OF AN ENVIRONMENTAL JUSTICE COMMUNITY  
6       AND ONE MUST BE FROM A NONGOVERNMENTAL ORGANIZATION THAT  
7       REPRESENTS STATEWIDE INTERESTS TO ADVANCE ENVIRONMENTAL  
8       PROTECTIONS, AND FOUR MEMBERS APPOINTED AS FOLLOWS:

9               (A) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF  
10       REPRESENTATIVES;

11              (B) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE  
12       HOUSE OF REPRESENTATIVES;

13              (C) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE;  
14       AND

15              (D) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE  
16       SENATE.

17              (II) THE APPOINTING AUTHORITIES SHALL MAKE THE INITIAL  
18       APPOINTMENTS TO THE BOARD NO LATER THAN JANUARY 1, 2021. WHEN  
19       MAKING APPOINTMENTS, THE APPOINTING AUTHORITIES SHALL CONSIDER  
20       GUIDANCE ISSUED BY THE ADMINISTRATOR REGARDING ENVIRONMENTAL  
21       JUSTICE.

22              (c) EACH APPOINTED MEMBER OF THE BOARD SERVES AT THE  
23       PLEASURE OF THE APPLICABLE APPOINTING AUTHORITY. THE TERM OF  
24       APPOINTMENT IS FOUR YEARS; EXCEPT THAT THE INITIAL TERM OF EACH  
25       MEMBER APPOINTED PURSUANT TO SUBSECTIONS (3)(b)(I)(C) AND  
26       (3)(b)(I)(D) OF THIS SECTION AND ONE MEMBER APPOINTED BY THE  
27       EXECUTIVE DIRECTOR IS TWO YEARS.

1 (d) EACH APPOINTED MEMBER OF THE BOARD IS ENTITLED TO  
2 RECEIVE PAYMENT OF PER DIEM AND REIMBURSEMENT FOR ACTUAL AND  
3 NECESSARY EXPENSES AT THE RATES SPECIFIED PURSUANT TO SECTION  
4 2-2-326 (1)(b) AS THOUGH THE MEMBER WERE A LEGISLATOR; EXCEPT  
5 THAT THE SOURCE OF THE MONEY IS THE FUND.

6 (e) THE OMBUDSPERSON SHALL CALL THE FIRST MEETING OF THE  
7 BOARD BY JANUARY 1, 2021. THE BOARD SHALL ELECT A CHAIRPERSON  
8 FROM AMONG ITS MEMBERS AT LEAST EVERY TWO YEARS. THE BOARD  
9 SHALL MEET AT LEAST ONCE EVERY QUARTER. THE CHAIRPERSON MAY  
10 CALL SUCH ADDITIONAL MEETINGS AS ARE NECESSARY FOR THE BOARD TO  
11 COMPLETE ITS DUTIES.

12 (f) UPON NOTIFICATION BY THE DEPARTMENT THAT AN  
13 ENFORCEMENT MATTER HAS BEEN RESOLVED WITH FINES THAT WILL BE  
14 PAID INTO THE FUND, THE BOARD SHALL RECOMMEND TO THE  
15 DEPARTMENT ENVIRONMENTAL MITIGATION PROJECTS IN RESPONSE TO  
16 VIOLATIONS THAT OCCUR IN, OR THAT DIRECTLY AFFECT, RESIDENTS OF OR  
17 WORKERS IN ENVIRONMENTAL JUSTICE COMMUNITIES, AS DETERMINED BY  
18 THE BOARD. MITIGATION PROJECTS THAT RESULT FROM NEGOTIATED  
19 SETTLEMENTS, INCLUDING THOSE THAT INVOLVE ONLY AN ALLEGED  
20 VIOLATION OR DO NOT INCLUDE AN ADMISSION OF GUILT, ARE SUBJECT TO  
21 THIS SUBSECTION (3)(f). IN EVALUATING A PROPOSED EMP, THE BOARD  
22 SHALL NOTIFY EACH ENVIRONMENTAL JUSTICE COMMUNITY THAT WAS  
23 AFFECTED BY THE VIOLATION OR WILL BE AFFECTED BY THE PROPOSED  
24 EMP; SOLICIT FEEDBACK FROM RESIDENTS OF, WORKERS IN, AND  
25 REPRESENTATIVES OF THOSE COMMUNITIES; AND HOLD A PUBLIC HEARING  
26 AT WHICH THE PUBLIC HAS AN OPPORTUNITY TO COMMENT ON THE  
27 PROPOSED EMP. THE BOARD SHALL:

1 (I) USE PUBLIC ENGAGEMENT BEST PRACTICES IN SCHEDULING AND  
2 CONDUCTING THE HEARING; AND

3 (II) CONSIDER THE INPUT RECEIVED FROM AND COLLABORATE  
4 WITH STAKEHOLDERS WHEN DEVELOPING PROPOSED EMPs.

5 (g) THE BOARD SHALL NOT BE INVOLVED IN AN ENFORCEMENT  
6 MATTER UNTIL THE DEPARTMENT HAS RESOLVED THE MATTER.

7 (h) THE COMMISSION SHALL INCLUDE IN THE ANNUAL REPORT  
8 PREPARED PURSUANT TO SECTION 25-7-105 (5) A SUMMARY OF THE  
9 BOARD'S ACTIONS, INCLUDING A DESCRIPTION OF ALL EMPs  
10 RECOMMENDED OR APPROVED DURING THE PREVIOUS YEAR.

11 (i) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
12 2025. BEFORE THE REPEAL, THE FUNCTIONS OF THE BOARD ARE  
13 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

14 (4) (a) **Environmental mitigation projects.** THE DEPARTMENT  
15 SHALL USE MONEY IN THE FUND TO PAY FOR EMPs. FOR VIOLATIONS THAT  
16 OCCURRED IN, OR DIRECTLY AFFECTED, AN ENVIRONMENTAL JUSTICE  
17 COMMUNITY, THE DEPARTMENT MAY APPROVE AN EMP THAT WAS  
18 RECOMMENDED BY THE BOARD. FOR VIOLATIONS THAT DID NOT OCCUR IN,  
19 OR DIRECTLY AFFECT, AN ENVIRONMENTAL JUSTICE COMMUNITY, THE  
20 DEPARTMENT MAY APPROVE AN EMP THAT ADDRESSES OTHER  
21 COMMUNITY PUBLIC HEALTH OR ENVIRONMENTAL EFFECTS THAT HAVE A  
22 NEXUS WITH THE VIOLATION.

23 (b) THE DEPARTMENT SHALL:

24 (I) (A) POST PROPOSED EMPs ON THE DEPARTMENT'S WEBSITE IN  
25 A FORMAT THAT ALLOWS THE PUBLIC TO SUBMIT COMMENTS ON THE  
26 PROPOSED EMP; AND

27 (B) NOT APPROVE AN EMP UNTIL AT LEAST FORTY-FIVE DAYS



1 AFTER THE EMP HAS BEEN POSTED ON ITS WEBSITE; AND

2 (II) INCLUDE A DESCRIPTION OF ALL APPROVED EMPs IN ITS

3 DEPARTMENTAL PRESENTATIONS MADE PURSUANT TO SECTION 2-7-203.

4 (5) **Definitions.** AS USED IN THIS SECTION:

5 (a) "BOARD" MEANS THE ENVIRONMENTAL JUSTICE ADVISORY

6 BOARD CREATED IN SUBSECTION (3) OF THIS SECTION.

7 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH

8 AND ENVIRONMENT, CREATED IN SECTION 25-1-102.

9 (c) "ENVIRONMENTAL JUSTICE COMMUNITY" MEANS A COMMUNITY

10 WHERE RESIDENTS:

11 (I) ARE PREDOMINANTLY MINORITIES OR HAVE LOW INCOME;

12 (II) HAVE BEEN EXCLUDED FROM THE ENVIRONMENTAL

13 POLICY-SETTING OR DECISION-MAKING PROCESSES;

14 (III) ARE SUBJECT TO A DISPROPORTIONATE IMPACT FROM ONE OR

15 MORE ENVIRONMENTAL HAZARDS; OR

16 (IV) EXPERIENCE DISPARATE IMPLEMENTATION OF

17 ENVIRONMENTAL REGULATIONS, REQUIREMENTS, PRACTICES, AND

18 ACTIVITIES.

19 (d) "ENVIRONMENTAL MITIGATION PROJECT" OR "EMP" MEANS A

20 PROJECT THAT AVOIDS, MINIMIZES, OR MITIGATES THE ADVERSE EFFECTS

21 OF A VIOLATION OR OTHER CUMULATIVE ENVIRONMENTAL IMPACTS IN AN

22 ENVIRONMENTAL JUSTICE COMMUNITY.

23 (e) "FUND" MEANS THE COMMUNITY IMPACT CASH FUND CREATED

24 IN SUBSECTION (1) OF THIS SECTION.

25 (f) "OMBUDSPERSON" MEANS THE ENVIRONMENTAL JUSTICE

26 OMBUDSPERSON POSITION CREATED IN SUBSECTION (2) OF THIS SECTION.

27 (g) "VIOLATION" MEANS A VIOLATION OR ALLEGED VIOLATION OF

1 THIS ARTICLE 7 OR ARTICLE 8 OF THIS TITLE 25.

2 **SECTION 4.** In Colorado Revised Statutes, 25-8-608, **amend** (1)  
3 introductory portion, (1.7)(a) introductory portion, (1.7)(a)(III),  
4 (1.7)(a)(IV), and (1.7)(d)(II); and **add** (1.7)(a)(V) as follows:

5 **25-8-608. Civil penalties - rules - fund created - temporary**  
6 **moratorium on penalties for minor violations - definitions - repeal.**

7 ~~(1) Except as otherwise provided in subsection (3) of this section, any~~ A  
8 person who violates ~~any provision of this article or of any~~ THIS ARTICLE  
9 8, A permit issued under this ~~article, or any~~ ARTICLE 8, A control  
10 regulation promulgated pursuant to this ~~article~~ ARTICLE 8, or ~~any~~ A final  
11 cease-and-desist order or clean-up order ~~shall be~~ IS subject to a civil  
12 penalty of not more than ~~ten~~ FORTY-SEVEN thousand THREE HUNDRED  
13 FIFTY-SEVEN dollars per day for each day during which ~~such~~ THE violation  
14 occurs; EXCEPT THAT, BEGINNING IN 2021, THE COMMISSION SHALL, BY  
15 RULE, ANNUALLY ADJUST THE AMOUNT OF THE MAXIMUM CIVIL PENALTY  
16 BASED ON THE PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT  
17 OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR  
18 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
19 CONSUMERS, OR ITS SUCCESSOR INDEX. In determining the amount of a  
20 penalty under this part 6, the following factors shall be considered:

21 (1.7) (a) The department OF PUBLIC HEALTH AND ENVIRONMENT  
22 shall expend ~~moneys~~ MONEY in the water quality improvement fund for  
23 the following purposes:

24 (III) Providing the nonfederal match funding for nonpoint source  
25 projects under 33 U.S.C. sec. 1329; ~~or~~

26 (IV) Providing grants for storm water management training and  
27 best practices training to prevent or reduce the pollution of state waters;

1 OR

2 (V) ENVIRONMENTAL MITIGATION PROJECTS FOR VIOLATIONS OF  
3 THIS ARTICLE 8 THAT HAVE BEEN APPROVED BY THE ENVIRONMENTAL  
4 JUSTICE ADVISORY BOARD CREATED IN SECTION 25-7-129 (3) AND BY THE  
5 DEPARTMENT PURSUANT TO THE STANDARDS SPECIFIED IN SECTION  
6 25-7-129 (4).

7 (d) (II) This subsection (1.7)(d) is repealed, effective September  
8 1, ~~2021~~ 2025.

9 **SECTION 5. Applicability.** This act applies to fines assessed on  
10 or after the effective date of this act.

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