

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6427

BILL NUMBER: HB 1059

NOTE PREPARED: Dec 7, 2007

BILL AMENDED:

SUBJECT: Commercial Fertilizer Law.

FIRST AUTHOR: Rep. Battles

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes changes to the commercial fertilizer law, including changing the definition of "blending" for fertilizers and adding a definition of "ammonium nitrate". It authorizes a \$50 fee for certification and education programs. It establishes civil penalties for violating the commercial fertilizer law, and makes it a Class A misdemeanor to knowingly and intentionally violate the commercial fertilizer law. The bill changes the membership of the Fertilizer Advisory Board and makes other technical changes.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *State Chemist.* SECTION 3 of the bill provides that the state chemist may establish fees for services to implement a certification and education program for specified categories of fertilizer material applicators. The state chemist must determine the content of the education programs. This program will be modeled after the pesticide private applicator program. Any additional expenses incurred by the state chemist will be offset by fees generated from certification.

Indiana Fertilizer Advisory Board. SECTION 5 of the bill adds two members to the board: one representative from the livestock industry and one representative of the Department of Agriculture (IDOA). Each member of the board who is not a state employee is entitled to receive per diem and reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties. Each member who is a state employee is entitled to reimbursement for travel expenses and other expenses incurred in connection with the member's duties. The board meets once a year. Increased expenses are estimated at less than \$300.

Explanation of State Revenues: SECTION 3 provides that the state chemist may establish fees for services to implement a certification and education program. Fees collected must be paid to the Treasurer of Purdue

University to be used in meeting all necessary expenses in carrying out the provisions.

The Fertilizer Board is proposing a rule that requires re-certification once every 5 years with a 3-phase implementation cycle starting with persons obtaining material from permitted animal feeding operations and from outside the state lines. The 2nd phase includes commercial applicators of inorganic (commercial) fertilizer, and the 3rd phase includes all applicators of organic and inorganic fertilizer on an agricultural operation of 100 or more acres. The rule, when fully implemented, is projected to have an estimated 24,000 participants: 2,000 commercial or for-hire organic applicators; 2,500 commercial or for-hire inorganic applicators; and 20,000 agricultural producers or farmers.

The proposed rule imposes a maximum \$50 fee for a 5-year certification. Given the anticipated number of participants and a maximum fee of \$50, revenue generated could equal an estimated \$1.2 M every five years, or \$240,000 annually on average.

Civil Penalties. SECTION 4 provides that the state chemist may impose civil penalties under a schedule adopted by the board. The amount of revenue that will be collected from penalties will depend on the number and nature of violations and the penalty schedule adopted by the board.

Criminal Penalties: SECTION 4 provides that a person who knowingly or intentionally violates the bill's provisions commits a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: *Criminal Penalties.* A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Criminal Penalties.* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: State Chemist; IDOA.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: State Chemist's Office, Mike Hancock, Fertilizer Administrator, 765-494-1547.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.