

LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
SENATE, No. 2679
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: DECEMBER 20, 2021

SUMMARY

Synopsis: Requires paint producers to implement or participate in paint stewardship program.

Type of Impact: Increased annual State revenues and expenditures.

Agencies Affected: Department of Environmental Protection.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill would result in an indeterminate annual State expenditure increase, since it requires the Department of Environmental Protection (DEP) to review all architectural paint stewardship plans and amendment submissions. At a minimum, a new full time staff member may be required to perform these functions at total annual compensation in the range of \$80,000 to \$120,000, plus additional costs for benefits, equipment, and technology.
- The OLS also finds there would be an annual State revenue increase roughly equal to the expenditure described above, as the DEP is required to charge and collect an annual fee from architectural paint producers to cover its administrative costs. The department may also collect an indeterminate amount of annual penalty revenue from any producer, distributor, or retailer violating the bill’s provisions.

BILL DESCRIPTION

The bill requires each architectural paint producer, or an organization representing multiple paint producers, to submit a paint stewardship plan to the DEP for review as part of a Statewide architectural paint stewardship program. This plan would outline the ways in which the paint

manufacturer or representative organization would assume responsibility for transporting, reusing, recycling, or otherwise disposing of unused paint collected from consumers. Any plan is to minimize the involvement of, and eliminate the costs to, the public sector.

The DEP would be required to approve or disapprove of each proposed stewardship plan. The bill also requires paint producers to notify the DEP if there are any changes to the location or number of collection sites, the identity of the processors that manage the post-consumer architectural paint, or the transporters of the post-consumer architectural paint collected under the paint stewardship program. The bill establishes a paint stewardship assessment to fund the program. This assessment would be applied to the sale price of architectural paint and is not to exceed the costs of implementing and sustaining the stewardship plan and the architectural paint stewardship program. The DEP would also be required to review annual reports from each paint producer or representative organization on the status of its paint stewardship program.

The bill directs the DEP to charge and collect an annual administrative fee from each paint producer or representative organization that submits a stewardship plan and specifies that the fee is not to exceed the department's costs in administering the provisions of the bill.

The bill prohibits a producer, distributor, or retailer of architectural paint from selling architectural paint, or offering it for sale, in the State unless the producer of the paint, or a representative organization of which the producer is a member, is engaged in the implementation of, or has fully implemented, a paint stewardship plan or revised plan approved by the DEP. The bill provides that any producer, distributor, or retailer who fails to comply with the bill's sales prohibition is subject to a written warning for a first offense and a penalty of \$500 for each subsequent offense. The bill authorizes the DEP to institute a civil action for injunctive relief to prevent a continuing violation of any sales prohibition. However, in order to allow time for the submission, approval, or modification of the plans required by the bill, the sales prohibition and penalty provision do not take effect until the first day of the 18th month following enactment of the bill.

The bill also provides that when the DEP determines that any producer, distributor, or retailer is in violation of the bill's provisions, the DEP may assess a civil administrative penalty of not more than \$500 for each violation, not to exceed a maximum penalty of \$10,000 during a calendar year. Each day of violation would constitute a distinct violation. The bill also provides that the DEP may post on its website a list of producers, distributors, and retailers that are in violation of this act.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will likely result in an indeterminate increase in annual State expenditures and revenue. The OLS notes that the majority of the costs of transporting and disposing of paint in conformance with each producer's stewardship plan would be passed on to consumers in the form of a surcharge included in the price of each unit of paint sold.

The bill requires the DEP to receive paint stewardship plans from producers, review the plans within 90 days of filing, approve or disapprove the plans, review amendments to the plans, post information about the plans on the DEP's website, and review annual reports submitted by paint

producers on the status of their stewardship plans. The bill provides a general framework for items that are required to be included in each plan; however, the amount of labor that will be required to review the plans depends partly on the details decided upon at the DEP. The bill also allow paint producers to collaborate on stewardship plans, so it is unclear how many different plans the DEP will be required to review. However, it is likely that the DEP will need a dedicated staff member with expertise in product stewardship and recycling to evaluate the plans submitted under the bill. At a minimum, a new full time staff member may be required to perform these functions at total annual compensation in the range of \$80,000 to \$120,000, plus additional costs for benefits, equipment, and technology.

The OLS also finds there would be an annual State revenue increase roughly equal to the expenditure described above, as the DEP is required to charge and collect an annual fee from architectural paint producers to cover its administrative costs. The department may also collect an indeterminate amount of annual revenues from penalties collected from any producer, distributor, or retailer violating the bill's provisions.

The bill requires the DEP to issue a written warning to any producer, distributor, or retailer violating the sales prohibition of this bill followed by a \$500 penalty for each subsequent offense. The bill also permits the DEP to assess civil administrative penalties of up to \$500 to each paint producer, distributor, or retailer in violation of the bill's provisions. The bill restricts the maximum civil administrative penalty to \$10,000 per calendar year per entity. In the event that paint producers, distributors, or retailers fail to comply with the bill, enforcement by the DEP could represent an additional expenditure increase. However, it is unlikely that the revenues generated by the penalties would equal this increased expenditure, given the amount of the maximum penalty.

Section: Environment, Agriculture, Energy and Natural Resources

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).