

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

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Date: November 15, 2012

Prime Sponsor(s): Sen. Spencer
Rep. Magnum

Bill Status: Senate Judiciary

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TITLE: CONCERNING THE REGULATION OF PRIVATE INVESTIGATORS.

Fiscal Impact Summary	FY 2013-14	FY 2014-15
State Revenue*		
General Fund	< \$5,000	< \$5,000
Cash Funds		
Division of Registrations Cash Fund	\$96,750	\$241,875
Identification Unit Cash Fund	\$19,750	\$988
State Expenditures		
Cash Funds		
Division of Registrations Cash Fund	\$159,106	\$101,440
Identification Unit Cash Fund	\$20,887	\$870
FTE Position Change	1.8 FTE	1.6 FTE
Effective Date: July 1, 2013		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

* Revenue from fees does not match expenditures in any single year because of the biennial license renewal schedule, and costs noted in the Expenditures Not Included section of this fiscal note.

Summary of Legislation

Beginning January 1, 2014, this bill requires that private investigators (PIs) obtain a license from the Division of Registrations in the Department of Regulatory Agencies (DORA) in order to conduct business in the state. The bill outlines what services consumers can expect PIs to provide and exempts other professionals who perform similar services, such as journalists or federal regulators, from the licensing requirement.

The director of the division must adopt rules for the new regulatory program, including rules to establish the application process, identify minimum education requirements and other qualifications for licensure, and set fees for new and renewed licenses. Applicants are required to submit to a fingerprint-based criminal history record check to be performed by the Colorado Bureau of Investigations (CBI) in the Department of Public Safety. Once licensed by the division, PIs must be issued a license and identification card containing a color photograph identifying the licensed professional. Only licensed professionals may use the title "Licensed Private Investigator" or "Licensed Private Detective."

The director of the division is given authority to investigate PIs and impose fines or other disciplinary measures against licensed professionals. Persons acting as a PI without a valid license commit a class 2 misdemeanor. The bill is repealed effective July 1, 2017, following a sunset review.

State Revenue

In total, license fees and fines are estimated to generate \$121,500 in new revenue in FY 2013-14. In FY 2014-15, increased fee and fine revenue is estimated at \$247,863. Fees are credited to the Division of Registrations Cash Fund at the DORA. Fine revenue is credited to the General Fund. Fees and fines are described in greater detail below.

License Fee Impact on Private Investigators. Section 2-2-322, C.R.S., requires legislative service agency review of measures that create or increase any fee collected by a state agency. Fee calculations are based on the estimated costs of the program distributed across the estimated number of licenses. The number of PIs is based on the DORA sunrise review of the profession. This fiscal analysis is based on biennial licensure; however, the actual renewal schedule is left to the discretion of the department. During annual fee setting for the program it will be determined if renewals must be completed more frequently based on the fund balance, program costs, and fee amounts. The department will begin licensing PIs in FY 2013-14; however, it is assumed that more professionals will license in FY 2014-15 as the licensure requirement becomes more widely known.

Table 1. Fee Impact on Private Investigators			
Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2013-14 Private Investigator Licensor	\$645	150	\$96,750
FY 2014-15 Private Investigator Licensor	\$645	375	\$241,875
2-YEAR TOTAL			\$338,625

Fines. The bill may increase revenue from administrative fines; however, any increase is estimated to be less than \$5,000 per year. Administrative fines collected by the department pursuant to the bill are credited to the General Fund.

According to Section 18-1.3-501, C.R.S., the penalty for a class 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a criminal fine of \$250 to \$1,000, or both. Criminal fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

Criminal History Background Check Fee. The Department of Public Safety will collect a total of \$19,750 in FY 2013-14 and \$988 in FY 2014-15. Revenue is from fees collected to perform state and federal fingerprint-based criminal background checks. Background checks are \$39.50 each and are anticipated to be performed on 500 applicants in the first year and 25 applicants in the second year. PIs are responsible for paying this fee as part of the licensing requirements.

State Expenditures

The bill requires total state expenditures of \$179,993 and 1.8 FTE in FY 2013-14 and \$102,310 and 1.6 FTE in FY 2014-15. Table 2 summarizes the cost components of the bill.

Table 2. Total Costs Under SB13-502		
Departments and Cost Components	FY 2013-14	FY 2014-15
Department of Regulatory Agencies		
Personal Services — Division of Registrations Staff	\$ 76,117	\$ 76,117
<i>FTE</i>	<i>1.5 FTE</i>	<i>1.5 FTE</i>
Contract personal services (520 hours at \$20.78 an hour)	10,806	0
Operating Expenses/Capital Outlay	10,742	5,670
Contract changes to registration software	<u>32,300</u>	<u>0</u>
<i>Subtotal</i>	<i>\$129,965</i>	<i>\$81,787</i>
Department of Law (Reappropriated Funds)		
Legal Services to DORA	\$29,141	\$19,653
<i>FTE</i>	<i>0.2 FTE</i>	<i>0.1 FTE</i>
Department of Public Safety		
Personal Services — Colorado Bureau of Investigations	\$ 5,223	\$ 215
<i>FTE</i>	<i>0.1 FTE</i>	<i>0.0 FTE</i>
Operating Expenses/Capital Outlay/Training	1,244	34
Hardware and software for fingerprint processing	1,995	0
Fingerprint processing	1,425	71
Pass through fees for FBI	<u>11,000</u>	<u>550</u>
<i>Subtotal</i>	<i>\$20,887</i>	<i>\$870</i>
<i>TOTAL COSTS</i>	<i>\$179,993</i>	<i>\$102,310</i>
<i>TOTAL FTE</i>	<i>1.8</i>	<i>1.6</i>

Department of Regulatory Agencies, Division of Registrations. The Division of Registrations will oversee the new regulatory program. The bill creates workload in the following categories:

- ◆ *Program oversight* - establishing a new regulatory function requires general program oversight, coordination with the practitioners and trade associations in the creation of rules, and providing identification cards;

- ◆ *License processing* - administrative staff will be required to assist license applicants; receive, verify, and review applications; verify criminal background checks; accept and deposit fees; and issue identification cards;
- ◆ *Complaints* - an estimated 30 complaints will require resources for complaint intake, investigation, tracking, and reporting; and
- ◆ *Enforcement* - the complaints will result in investigations that may, in turn, require adjudication.

The first year of the program requires temporary contract work to assist in establishing the program and processing complaints (expected to be higher in the first year until the licensing program is more widely known).

Department of Law. The Department of Law will provide 385 hours of legal services for rule making and general counsel to the DORA at a blended rate of \$75.38 per hour in FY 2013-14. Legal services are anticipated to decrease to 260 hours in FY 2014-15.

Department of Public Safety, Colorado Bureau of Investigation. The CBI processes the fingerprint-based criminal background checks. The bureau receives fingerprints from the applicants, scans the fingerprints, and checks the applicant against CBI's database. Fingerprints are forwarded to the FBI to be checked against a national database.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 3.

Cost Components	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$9,672	\$9,672
Supplemental Employee Retirement Payments	2,188	2,794
Indirect Costs	16,304	16,304
TOTAL	\$28,164	\$28,770

*More information is available at: http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf

Local Government Impact

The penalty for a class 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a fine of \$250 to \$1,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$47.42 to house state inmates. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

State Appropriations

For FY 2013-14, this bill requires an appropriation of \$159,106 and 1.5 FTE from the Division of Registrations Cash Fund to the Department of Regulatory Agencies. Of this amount, the Department of Law requires \$29,141 reappropriated funds and an allocation 0.2 FTE.

For FY 2013-14, this bill requires an appropriation of \$20,887 from the Colorado Bureau of Investigations Identification Unit Cash Fund to the Department of Public Safety and an allocation of 0.1 FTE.

Departments Contacted

Law

Public Safety

Regulatory Agencies