

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0088 **Date:** May 14, 2013
Prime Sponsor(s): Sen. Steadman; Guzman **Bill Status:** Signed into Law
 Rep. Ferrandino; Schafer **Fiscal Analyst:** Bill Zepernick (303-866-4777)

TITLE: CONCERNING AUTHORIZATION OF CIVIL UNIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014	FY 2014-15
State Revenue	At least	At least	At least
<u>Total</u>	<u>\$31,050</u>	<u>\$35,650</u>	<u>\$39,900</u>
Cash Funds			
Vital Statistics Records Cash Fund	4,050	4,650	3,900
Colorado Domestic Abuse Program Fund	27,000	31,000	26,000
Various Judicial Cash Funds	<5,000	<5,000	10,000
State Expenditures			
<u>Total</u>	<u>\$6,976</u>	<u>\$4,021</u>	<u>\$11,421</u>
General Fund			4,182
Cash Funds			
Vital Statistics Records Cash Fund	6,976	4,021	3,996
Multiple Cash Funds (CBMS)			268
Federal Funds			2,975
FTE Position Change	0.1 FTE	0.1 FTE	0.1 FTE
Effective Date: The bill was signed by the Governor on March 21, 2013, and takes effect on May 1, 2013, except that Section 7 of the bill takes effect on January 1, 2014.			
Appropriation Summary for FY 2012-13 and FY 2013-14: See State Appropriations section.			
Local Government Impact: See Local Government Impact section.			

Summary of Legislation

The bill authorizes civil unions in Colorado and sets forth the rights, responsibilities, and requirements of persons entering a civil union. Two persons, regardless of gender, may enter into a civil union if they are not related by blood, not married to or in a civil union with another person, and are over the age of 18. The bill sets the fees and procedures to obtain a civil union license from a county clerk and to petition the court for the dissolution, invalidation, and legal separation of a civil union. The Department of Public Health and Environment (DPHE) is required to create all necessary forms for civil union licenses and certificates.

The bill grants persons in civil unions the same benefits, protections, and responsibilities as spouses and specifies that persons in a civil union are covered under the statutory definitions of dependent, spouse, next of kin, heir, family, immediate family, and other terms in law indicating a familial or spousal relationship. The bill applies the laws of domestic relations (i.e., divorce, child custody, property division, child support, etc.) to persons in civil unions.

The bill applies the benefits, protections, and responsibilities of spouses to the parties to a civil union in several areas, including, among other things:

- estate law;
- workers' compensation benefits;
- unemployment benefits;
- torts and causes of action based on spousal status;
- protections from discrimination based on spousal status;
- probate law;
- adoption law;
- group benefit plans for state employees;
- emergency medical care and visitation;
- Public Employees' Retirement Association (PERA) benefits;
- access to domestic abuse programs and protections;
- victim compensation;
- visitation in correctional and other types of facilities;
- end-of-life care and other issues relating to medical care; and
- access to health, life, and property insurance policies as a dependent.

Other provisions of the bill:

- outline the privileged relationship between persons in a civil union and rules for testimony and examination of persons in a civil union against the other person;
- specify judicial jurisdiction over civil union cases and recognize same-sex unions from other states as civil unions in Colorado, regardless of the term used for the relationship in the other state (marriage, domestic partnership, etc.);
- state that persons in a civil union may not file a joint state tax return; and
- specify that the provisions of the bill shall not be construed to create a marriage between parties to a civil union or alter the policy of the state that marriage is only the union of one man and one woman.

State Revenue

The bill is expected to increase state revenue to various cash funds by at least \$31,050 in FY 2012-13, \$35,650 in FY 2013-14, and \$39,900 in FY 2014-15. This revenue is from fees paid by persons obtaining civil union licenses, as well as court fees from persons legally dissolving a civil union. This revenue is distributed to several funds and agencies as discussed below.

Fee impact on individuals and families. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. The fees created by this bill are discussed below.

Civil union license fees. The fee for a civil union license is estimated to be \$30. Of this amount, \$27 is set in the bill and \$3 is assumed based on fees collected by DPHE for marriage licenses and allowed under the bill to support vital records operations at the state level. Based on a \$30 fee, it is assumed that \$3 will go to the Vital Statistics Records Cash Fund in the DPHE, \$20 will go to the Colorado Domestic Abuse Program Fund in the Department of Human Services (DHS), and \$7 will be retained by counties. Table 1 provides a breakdown of this fee revenue by fund and agency, and the section below discusses the fee impact and estimated number of civil unions.

The total fee impact on persons entering civil unions, including state and local revenue, is estimated to be \$40,500 in FY 2012-13, \$46,500 in FY 2013-14, and \$39,000 in FY 2014-15, based on the projection that 1,350 couples will enter a civil union in FY 2012-13 (May and June 2013), 1,550 in FY 2013-14, and 1,300 in FY 2014-15. The projection for the first 14 months of civil unions (i.e., FY 2012-13 and FY 2013-14) includes 2,700 same-sex couples and 200 opposite-sex couples. Beginning in the third year and beyond, civil unions are expected to level off at about 1,200 same-sex couples and 100 opposite-sex couples per year.¹ Table 1 provides an overview of the fee impact from civil union licenses based on the fee and population assumptions listed above.

¹The number of same-sex civil unions is estimated using the rate of civil unions that has occurred in various other states adjusted by population and data from the 2010 census on same-sex households. Data on opposite-sex civil unions was based on the experience of Illinois, which implemented gender-neutral civil unions in 2011. In Cook County, IL, 2,000 civil unions were performed in the first 6 months that they were available, of which only about 150 involved opposite-sex couples (7.5 percent). The number of opposite-sex civil unions represents people who would not have married otherwise.

Table 1. Fee Revenue from Civil Unions Licenses under SB 13-011			
Fund / Agency	Number Affected	Portion of \$30 Fee	Revenue
<i>FY 2012-13</i>			
Colorado Domestic Abuse Program Fund (DHS)		\$20	\$27,000
Vital Statistics Records Cash Fund (DPHE)	1,350	3	4,050
Fees Retained by County Clerks		7	9,450
State Fee Revenue	1,350	\$23	\$31,050
<u>Local Fee Revenue</u>		7	<u>9,450</u>
TOTAL			\$40,500
<i>FY 2013-14</i>			
Colorado Domestic Abuse Program Fund (DHS)		\$20	\$31,000
Vital Statistics Records Cash Fund (DPHE)	1,550	3	4,650
Fees Retained by County Clerks		7	10,850
State Total	1,550	\$23	\$35,650
<u>Local Total</u>		7	<u>10,850</u>
TOTAL			\$46,500
<i>FY 2014-15</i>			
Colorado Domestic Abuse Program Fund (DHS)		\$20	\$26,000
Vital Statistics Records Cash Fund (DPHE)	1,300	3	3,900
Fees Retained by County Clerks		7	9,100
State Total	1,300	\$23	\$29,900
<u>Local Total</u>		7	<u>9,100</u>
TOTAL			\$39,000

Court fees. The bill also sets docket fees for filing petitions for dissolution of a civil union, declaration of invalidity of a civil union, legal separation, or declaratory judgement concerning the status of a civil union. In these types of cases, the petitioner is charged \$230 and the respondent is charged \$116. Revenue from these fees is distributed to various funds according to current law, including the Performance-based Collaborative Management Incentive Cash Fund, the Colorado Children's Trust Fund, the Judicial Stabilization Fund, the General Fund, and several others. Assuming one percent of cumulative civil unions formed up to that date legally separate in any given year, fee revenue for the dissolution of civil unions and similar cases will be minimal (less than \$5,000 per year) in the first two years after the bill is implemented. In FY 2014-15, revenue to the Judicial Branch from court fees will increase by about \$10,000 from around 30 cases.

State Expenditures

The bill increases costs by at least **\$6,976 in FY 2012-13, \$4,021 in FY 2013-14, and \$11,421 in FY 2014-15 and by 0.1 FTE in each year.** Costs in the first two years are entirely from cash fund sources. The third year is mostly cash funds, but also includes a one-time cost of \$4,182 from the General Fund. The bill could result in other costs and savings, as discussed below, but these have not been estimated. Table 2 and the discussion below provide an overview of costs included in the fiscal note.

Department of Public Health and Environment. The bill increases costs in the DPHE by \$6,976 in FY 2012-13, \$4,021 in FY 2013-14, and \$3,996 in FY 2014-15 and beyond, and adds 0.1 FTE in each year. These costs are paid from the Vital Statistics Records Cash Fund and are for staff to review civil unions records submitted by county clerks, follow up on any problematic records and, in the first year, develop forms and procedures. Operating costs include minor computer system changes in the first year and printing costs for civil union certificates.

Colorado Benefits Management System (CBMS) modifications. The Department of Health Care Policy and Financing (DHCPF) and DHS will have one-time costs of \$7,425 in FY 2014-15 to modify CBMS, including \$4,182 from the General Fund, \$268 from various cash funds, and \$2,975 in federal funds. These modifications are required so that workers in county departments of social services can account for the income and resources of all persons in civil unions when determining eligibility and calculating benefits for public assistance programs. Although CBMS currently has the capacity to track information on spouses, creation of a same-sex civil union category is required because the eligibility criteria of some federal programs do not recognize same-sex relationships. Because of the current backlog in system changes required to CBMS, it is assumed that these changes will not be implemented until January 2015.

Table 2. Expenditures and Funding Sources Under SB 13-011			
Cost Components	FY 2012-13	FY 2013-14	FY 2014-15
Personal Services (DPHE)	\$3,879	\$3,879	\$3,879
FTE (DPHE)	0.1	0.1	0.1
Operating Expenses (DPHE)	3,097	142	117
CBMS Modifications (DHCPF / DHS)	0	0	7,425
<u>TOTAL</u>	<u>\$6,976</u>	<u>\$4,021</u>	<u>\$11,421</u>
<i>Funding Sources</i>			
General Fund	\$0	\$0	\$4,182
Vital Statistics Records Cash Fund	6,976	4,021	3,996
Multiple Cash Funds (CBMS)	0	0	268
Federal Funds	0	0	2,975

Judicial Branch. The bill increases workload in the courts from cases involving civil unions, primarily cases for the dissolution of a civil union. Judges may also certify new civil unions. For dissolution cases, workload is not expected to increase significantly until several years after civil unions are authorized. Because the number of cases to dissolve a civil union are anticipated to be a small percentage of all marriage and civil unions in the state, the increase in workload to the courts from these cases is expected to be minimal. Any increase in staff required by the courts in out-years will be handled through the annual budget process, with costs offset by docket fees.

Department of Human Services. The DHS receives additional funding for domestic violence services from civil union licenses fees under the bill. This analysis assumes this revenue will be appropriated through the annual budget process.

Other potential costs. Allowing people to enter into civil unions could result in costs in several areas by extending certain benefits to persons in a civil union that are not currently allowed under state law. Several examples of potential costs include:

- **Medicaid** — Adding a family member through a civil union could result in additional persons from a household becoming eligible for Medicaid. Any impact is assumed to be minimal and is not estimated.
- **Colorado Works** — Depending on household status and the exact benefits offered by a county, a person in a civil union could receive some benefits under the Colorado Works program. However, any increase in costs is assumed to be minimal and would be absorbed in county block grants.
- **Senior Homestead Property Tax Exemption** — The bill could have a small, long-term effect on state expenditures for the senior homestead property tax exemption. When people who are eligible for the homestead exemption die, their surviving spouse may continue to claim the exemption, even if they do not meet the ten-year residency requirement. Civil unions will increase the number of surviving spouses that can continue claiming the homestead exemption who would not have been able to under current law. However, the number of persons 65 and older in civil unions that qualify for the exemption and then die leaving a surviving spouse cannot be predicted, and the number in the initial years will be very small. Any impact is also dependent on the extent to which the senior homestead property tax exemption is funded by the legislature.
- **Workers' compensation** — A person in a civil union may be entitled to surviving spouse benefits in the event of a workplace death. Any increase, which is assumed to be minimal, would be covered through rates charged to employers.
- **State group health and dental insurance** — Civil unions involving state employees could result in more employees covering a spouse and other dependents through state group insurance. However, because state law already allows same-sex domestic partners to access health and dental insurance through a state employee, any increase is expected to be minimal.
- **Public Employee Retirement Association (PERA)** — A person in a civil union may be entitled to certain retirement and insurance benefits as a surviving spouse under PERA. However, any impact of such benefits will not add to PERA's liability as persons can currently designate a same-sex beneficiary under current law, and PERA currently assumes that all members have a spouse for actuarial purposes.

Potential savings. The bill *could result in savings to the state*, primarily by making some persons ineligible for public assistance such as Medicaid and Colorado Works by increasing household income beyond the eligibility threshold by adding a family member through a civil union. However, data are not available on the income and benefit status of persons likely to enter into a civil union and potential savings cannot be estimated. In addition, becoming ineligible for public assistance could be a disincentive for some people to enter into a civil union, which is another effect on potential savings that cannot currently be calculated. The fiscal note assumes that any savings to Medicaid and other public assistance programs, if realized, will be minimal.

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.

Table 3. Expenditures Not Included Under SB 13-011*			
Cost Components	FY 2012-13	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$611	\$612	\$612
Supplemental Employee Retirement Payments	238	238	238
TOTAL	\$849	\$850	\$850

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

The bill increases costs and workload for county clerks to process license applications for civil unions, but also increases fee revenue to cover these costs. In the first year, county clerks will also have one-time costs for computer programming, form development, training, and other tasks to implement civil unions in Colorado. Workload for processing civil unions is expected to be highest in the first year, and then level off over time. Some county clerks may require temporary staff to handle the workload in the first several months that civil unions are available. It is estimated that counties will receive **fee revenue of \$9,450 in FY 2012-13, \$10,850 in FY 2013-14, and \$9,100 in FY 2014-15.** Exact costs and revenue to the counties depend on the number of civil unions formed.

In addition, some local governments may have higher costs for group employee insurance to cover partners in a civil union, if such benefits are not currently available. Also, as discussed in the State Expenditures section, to the extent that persons entering civil unions increase the number of persons eligible for certain public assistance programs (Medicaid, Colorado Works, etc), counties could have additional workload for eligibility determination. Counties may also have higher costs for benefits provided under Colorado Works that would be absorbed into existing county block grants.

State Appropriations

The bill requires the following appropriations:

- \$6,976 from the Vital Statistics Records Cash Fund and 0.1 FTE to the DPHE in the current fiscal year (FY 2012-13); and
- \$4,021 from the Vital Statistics Records Cash Fund and 0.1 FTE to the DPHE in FY 2013-14.

Departments Contacted

Corrections
Health Care Policy and Financing
Judicial
Law
PERA
Public Health and Environment
Revenue

Education
Human Services
Labor and Employment
OIT
Personnel and Administration
Regulatory Agencies
County Clerks