



Colorado *Legislative Council Staff Fiscal Note*  
**STATE**  
**FISCAL IMPACT**

**Drafting Number:** LLS 07-0889 **Date:** March 5, 2007  
**Prime Sponsor(s):** Sen. McElhany and Groff **Bill Status:** Senate SVMA  
**Fiscal Analyst:** Chris Ward (303-866-5834)

**TITLE:** CONCERNING THE ESTABLISHMENT OF THE INDEPENDENT ETHICS COMMISSION AS REQUIRED BY ARTICLE XXIX OF THE STATE CONSTITUTION, AND MAKING AN APPROPRIATION THEREFOR.

Fiscal Impact Summary	FY 2007-2008	FY 2008-2009
<b>State Revenue</b>	\$0	\$0
<b>State Expenditures</b>		
General Fund	\$219,996	\$132,255
<b>FTE Position Change</b>	2.7 FTE	2.1 FTE
<b>Effective Date:</b> Upon signature of the Governor.		
<b>Appropriation Summary for FY 2007-2008:</b> See State Appropriations section.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

This bill establishes the Ethics Commission created by Amendment 41 in the Office of Administrative Courts in the Department of Personnel and Administration. Among other things, the bill specifies that if the commission does not respond to a request for an advisory opinion within 15 days, the subject of the request will be deemed to comply with the constitution. Consistent with Amendment 41, members of the commission will not be compensated. Instead, members may seek reimbursement for actual and necessary expenses.

**Background.** Article XXIX of the Colorado Constitution, approved by voters at the 2006 general election as Amendment 41, established a 5-member ethics commission to hear complaints, issue findings and advisory opinions, and assess penalties. The constitution requires that the General Assembly appropriate "reasonable and necessary funds to cover staff and administrative expenses" so that the commission may carry out its duties. This bill includes a blank appropriation clause.

A similar 5-member board oversees an ethics code for roughly 13,000 officials and employees of the **City and County of Denver** with 1 staff person and an operating budget of \$92,600. The board meets monthly and over six years has reviewed and issued formal opinions on an average of roughly 45 cases per year. In 2006, the board received 19 formal requests for advisory opinions and 27 formal complaints. However, many other issues were dealt with informally or through training. The Denver Board of Ethics, however, does not assess penalties.

In **Kentucky**, a 5-member ethics commission investigates complaints and advises state elected officials and state employees regarding the state's ethics code. In FY 2004-05, the commission spent \$358,937 to consider 1,049 inquiries, conduct 38 training classes, and issue 69 advisory opinions and advisory letters. The commission is supported by a staff consisting of 6 paid employees, including an executive director, legal counsel, 2 investigators, and 2 support staff, as well as 2 student interns.

### State Expenditures

State expenditures are expected to increase by \$219,996 and 2.7 FTE in FY 2007-08, as shown in Table 1. These costs relate to staffing and expenses for the commission, which would be housed in the Office of Administrative Courts within the Department of Personnel and Administration. All costs would be paid from the General Fund.

<b>Table 1. Estimated Costs of the Article XXIX Ethics Commission</b>		
<b>Cost Components</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>
Personal Services	\$80,856	\$80,856
FTE *	2.7	2.1
Operating Expenses	\$1,000	\$1,000
Capital Outlay	\$6,010	\$0
Commission Expenses	\$10,144	\$10,144
Legal Services	\$121,986	\$40,255
<b>TOTAL</b>	<b>\$219,996</b>	<b>\$132,255</b>

*\*Includes hours for legal services.*

The costs shown in Table 1 assume the commission will meet once per month beginning in July 2007, and that legal and support staff will be hired after July 1, 2007. Staff support will include one full-time legal assistant/investigator to help with developing rules, analyzing documents, and making recommendations to the commission, and one part-time clerk to process complaints, schedule hearings, and perform other administrative tasks. In addition, because commissioners receive no compensation and are expected to serve only on a part-time basis, it is assumed that the commission will need the support of legal services from the Department of Law. These services are expected to total 1,800 hours (0.9 FTE) in FY 2007-08 and 594 hours (0.3 FTE) per year thereafter. Legal services are billed at an hourly rate of \$67.77 and are paid as a cash funds exempt transfer.

Under the constitution, the commission has jurisdiction over all 60,000 state officials and employees, as well as all county and municipal officials and employees in Colorado. This fiscal note makes no attempt at estimating the number of complaints or requests for advisory opinions that the commission may receive, nor does it estimate the complexity of complaints or requests for

information. It simply identifies a minimum level of staffing and support and assumes that any tasks that cannot be completed within the appropriated amounts will not be undertaken. Any change in the commission's resources will be addressed through the annual budget process.

**State Appropriations**

For FY 2007-08, this fiscal note implies that the Office of Administrative Courts in the Department of Personnel and Administration requires a General Fund appropriation of \$219,996 and 1.8 FTE in FY 2007-08. Of this amount, the Department of Law would require a cash funds exempt appropriation of \$121,996 and 0.9 FTE.

**Departments Contacted**

Law

Judicial

Personnel and Administration