


Colorado Legislative Council Staff Fiscal Note
STATE
FINAL FISCAL IMPACT

Drafting Number: LLS 07-0889 **Date:** May 21, 2007
Prime Sponsor(s): Sen. McElhany and Groff **Bill Status:** Signed Into Law
Rep. Marshall and May M. **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
State Revenue	\$0	\$0
State Expenditures		
General Fund	\$219,996	\$132,255
FTE Position Change	2.7 FTE	2.1 FTE
Effective Date: The bill was signed by the Governor and became law on April 26, 2007.		
Appropriation Summary for FY 2007-2008: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

This bill clarifies certain provisions of Article XXIX of the Colorado Constitution. Among other things, it establishes the Ethics Commission in the Office of Administrative Courts in the Department of Personnel and Administration, requires four of the commission's five members to approve any subpoena, and requires that the commission respond to requests for advisory opinions from covered officials within 20 days. Advisory opinions and letter rulings issued by the commission must be posted on a publicly-accessible website. 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 was approved by voters at the 2006 general election as Amendment 41. It establishes a 5-member ethics commission to hear complaints, issue findings and advisory opinions, and assess penalties. It also 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 appropriates roughly \$220,000 and 2.7 FTE to cover the commission's expected first-year costs.

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 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 the amounts 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.

Table 1. Estimated Costs of the Article XXIX Ethics Commission		
Cost Components	FY 2007-08	FY 2008-09
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
TOTAL	\$219,996	\$132,255

**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

Consistent with this fiscal note, the bill appropriates \$219,996 General Fund and 1.8 FTE to the Office of Administrative Courts in the Department of Personnel and Administration for FY 2007-08. Of this amount, \$121,996 and 0.9 FTE are appropriated as a cash funds exempt transfer to the Department of Law. To cover the General Fund costs identified in this fiscal note, the bill reduces the General Fund appropriation to the Controlled Maintenance Trust Fund by \$219,996 for FY 2007-08.

Departments Contacted

Law

Judicial

Personnel and Administration