



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

Drafting Number: LLS 07-0108
Prime Sponsor(s): Sen. Williams
 Rep. Riesberg

Date: January 30, 2007
Bill Status: Senate Business, Labor, and Technology
Fiscal Analyst: David Porter (303-866-4375)

TITLE: CONCERNING THE REGULATION OF ATHLETIC TRAINERS.

Fiscal Impact Summary	FY 2007-2008	FY 2008-2009
State Revenue Detail		
Fines Collection Cash Fund	< \$ 5,000	< \$ 5,000
Division of Registrations Cash Fund	198,000	132,900
State Expenditures Detail		
Division of Registrations Cash Fund	\$ 164,351	\$ 99,470
FTE Position Change	1.2 FTE	1.2 FTE
Effective Date: July 1, 2007.		
Appropriation Summary for FY 2007-2008: See State Appropriations section.		
Local Government Impact: Potential county jail impact.		

Summary of Legislation

Athletic trainers typically work with athletes in the identification, treatment, and prevention of injuries. SB07-024, the Athletic Trainer Practice Act, grants the director of the Division of Registrations, Department of Regulatory Agencies (DORA), the authority to license and regulate athletic trainers. The bill includes the following provisions:

- defines athletic trainers and the scope of their work;
- specifies applicant educational background, certifications, and examination requirements necessary to obtaining a license;
- gives license terms;
- determines grounds for disciplinary action and the division's responsibilities and authority when handling violations of the act or of the body's rules and regulations;
- establishes a class 2 misdemeanor for conviction of a first offense of practicing without a license and a class 6 felony for second and subsequent convictions; and
- provides the ability to set and collect fees.

The bill creates a seven-member advisory committee to assist in the development and performance of the director's duties. Committee members are required to meet at least three times in the first year and two times in the second year. Members are eligible to receive reimbursement for their expenses. Reimbursement is to be covered through fee revenue. The advisory committee sunsets on July 1, 2017.

The bill also removes language giving the Board of Medical Examiners the authority to create rules and regulations about athletic trainers. This bill replaces, modifies, and expands upon existing statutory provisions.

State Revenue

Total state revenue is at least \$198,000 in FY 2007-08 and \$132,900 in FY 2008-09. Revenue is primarily to the Department of Regulatory Agencies, Division of Registration, from fees collected for the licensure of athletic trainers. Fees are determined by distributing program cost across all licensees and are discussed in greater detail in Table 1. Additional fine revenue may be collected for misdemeanor or felony convictions.

Fine Revenue. Per 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 fine of \$250 to \$1,000, or both. Per Section 18-1.3-401, C.R.S. (III) (A), the fine penalty for a class 6 felony is \$1,000 to \$100,000. Unless otherwise provided by law, the fines are to be deposited in the state Fines Collection Cash Fund for annual appropriations to cover associated administrative and personnel costs. All unexpended balances of the cash fund revert the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined. However, a minimal amount of fine revenue (< \$5,000 per year) is assumed under the bill.

Fee Impact on Individuals, Families or Business

Pursuant to Section 2-2-322, C.R.S., which requires legislative service agency review of legislative measures which include the creation or increase of any fee collected by a state agency, the following analysis is provided. Fee calculations are based on predicted expenditure levels and the number of licenses issued. The assumptions for the expenditures are detailed in the expenditure section that follows. The number of licenses issued is based on estimates provided in the 2005 Sunrise Review. This fiscal analysis assumes that licenses are issued annually. The actual renewal schedule is left to the discretion of the board.

Table 1. Fee Impact On Individuals, Families Or Business				
Fiscal Year	Type of Fee	Proposed Fee*	# of Affected Individuals	Total Fee Impact
2006-07	Initial Application Fee	\$330	600	\$198,000
2007-08	Application Fee	\$258	50	\$12,900
	Renewal Fee	\$200	600	\$120,000
Total			FY 2006-07	\$198,000
			FY 2007-08	\$132,900

State Expenditures

This bill will result in total state expenditures of \$164,351 and 1.2 FTE in FY 2007-08 and \$99,470 and 1.2 FTE in FY 2008-09.

Department of Regulatory Agencies. The bill requires the director to develop rules, set up a licensing process, and investigate complaints as they arise. Expenditure estimates for this new program are based on costs of similar sized programs within the Department of Regulatory Agencies. Table 2 identifies the cost components of SB07-024.

Table 2. Total Costs Under SB07-024		
Cost Components for DORA	FY 2007-08	FY 2008-09
Personal Services (1.2 FTE)	\$61,590	\$61,590
Contract Personal Services	8,138	0
Operating Expenses	15,905	12,330
Committee Meetings - 3 meetings in FY 2006-07 and 2 meetings in FY 2007-08	4,500	3,000
Legal Services - transfer to Department of Law	35,918	22,364
Registration System Hardware and Software	32,300	186
Monitoring and Evaluation of Exam	6,000	0
Bill Total:	\$164,351	\$99,470
FTE	1.2	1.2

Additional details about the cost components shown in Table 2 follow:

- personnel are required to implement the program, provide general direction and oversight, manage registration and renewal data, and to investigate complaints;
- contract personnel are necessary in the first year to develop applications and help with processing applications;
- the examination used to license athletic trainers must be reviewed and approved by the department;

- the exam process must be contracted out;
- legal services will be necessary for assisting with the rule-making process and complaints that require adjudication; and
- a new registration type must be added to the existing registration system resulting in both hardware and software costs.

Department of Law. The Department of Law provides legal services to the DORA. In FY 2007-08, 530 hours of legal services are required for rule-making and assisting in the complaint process. In FY 2008-09, 330 hours are required for complaint adjudication.

Department of Personnel and Administration. The workload of the Office of Administrative Courts within the Department of Personnel and Administration (DPA) is impacted by any hearings that result from this bill. However, this bill alone does not generate the need for more administrative law judges. Should a number of bills pass this session and significantly impact the DPA, it is assumed that any additional resources will be addressed through the annual budget process.

Felony Offense. The bill establishes a class 6 felony offense for the second conviction of unlicensed practice. As mentioned earlier, if convicted of a class 6 felony, an athletic trainer could be fined, sentenced to 12 to 18 months in state prison, or both. This fiscal note estimates that no athletic trainer will be imprisoned based on the following assumptions: (1) most professions comply with industry regulations; (2) prior to being eligible for a class 6 felony, an athletic trainer would have been subject to an administrative action, followed by a class 2 misdemeanor; (3) if an athletic trainer were not stopped by prior enforcement actions, the judge convicting a second offense would still have sentencing options other than imprisonment available - it is likely that a fine and/or probation would be the first step towards rehabilitating an athletic trainer.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, funding for the items noted below will not be included in fiscal note expenditure estimates. However, indirect costs are calculated for the purpose of identifying the "per applicant" cost of a new or revised fee to reflect the total direct and indirect costs required to support a particular program.

- group health, life and dental insurance
- inflation indices
- amortization equalization disbursements
- supplemental amortization equalization disbursements
- short-term disability
- leased space
- indirect costs

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, imposing a fine, or both, 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 \$48.96 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

This fiscal note indicates an appropriation to the Department of Regulatory Agencies of \$164,351 cash funds from the Division of Registrations Cash Fund and 1.2 FTE for FY 2007-08. The Department of Law will require a \$35,918 cash funds exempt appropriation from the Department of Regulatory Agencies in FY 2007-08.

Departments Contacted

Corrections	District Attorneys Council
Judicial	Law
Personnel and Administration	Public Safety
Regulatory Agencies	