Colorado Legislative Council Staff Fiscal Note

FINAL
FISCAL NOTE

Drafting Number:	LLS 09-0436	**Date:**	July 15, 2009
Prime Sponsor(s):	Rep. Lambert	**Bill Status:**	Postponed Indefinitely
	Sen. Cadman	**Fiscal Analyst:**	Chris Ward (303-866-5834)

TITLE: CONCERNING THE CREATION OF A STATE DATABASE CONTAINING INFORMATION ABOUT SOLE-SOURCE CONTRACTS TO WHICH GOVERNMENTAL ENTITIES ARE A PARTY FOR THE PURPOSE OF IMPLEMENTING CHANGES TO ARTICLE XXVIII OF THE STATE CONSTITUTION APPROVED BY THE VOTERS IN THE 2008 GENERAL ELECTION.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
Cash Funds		
Sole-Source Government Contract Database Fund	$90,000	$90,000
State Expenditures		
Cash Funds		
Sole-Source Government Contract Database Fund	$144,622	$68,834
Department of State Cash Fund	17,400	0
FTE Position Change	1.3 FTE	1.0 FTE
Effective Date: The bill was postponed indefinitely by the House State, Veterans and Military Affairs Committee on February 3, 2009.		
Appropriation Summary for FY 2009-2010: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

This bill clarifies certain provisions in Article XXVIII of the Colorado Constitution. Among other things, it requires the Department of Personnel and Administration (DPA) to use existing databases, or establish a new database, to be the repository of information required to be filed by contractors working under certain government contracts. It also allows the department to charge a fee to contractors to cover the direct and indirect costs of operating and maintaining the database. Finally, the bill requires that information in the sole source contract database be transferrable to the Secretary of State's campaign finance database.

Background

Article XXVIII of the Colorado Constitution was approved by voters at the 2008 general election as Amendment 54. The provisions of the amendment:

- prohibit certain government contractors from making political contributions for the duration of any government contract and two years thereafter;
- prohibit people contributing financially to ballot issue campaigns from entering into certain government contracts relating to the ballot issue; and
- apply to any entity working under a government contract worth more than $100,000 in a single year, where the contract was awarded without using a public and competitive bidding process soliciting at least three bids, including labor organizations holding a collective bargaining agreement with a state or local government.

Amendment 54 also requires the Department of Personnel and Administration to publish and maintain a summary of each covered government contract issued by the state and all local government entities, beginning December 31, 2008. The 2008 Blue Book estimated that this requirement would cost a total of $277,000 in FY 2008-09 and $85,000 per year thereafter. FY 2008-09 cost estimates included $234,000 in contract computer programming costs to develop a database and $43,000 in staff support costs for a full-time person starting on January 1, 2009, half-way through the fiscal year. Ongoing costs were estimated to be $85,000 for staff support and maintenance of the database.

State Revenue

This fiscal note assumes that the bill will increase state revenue from fees by an estimated $90,000 per year in order to cover the anticipated costs of operating and maintaining the database. These moneys would be credited to the newly-created Sole-Source Government Contract Database Fund. The revenue estimate assumes that fees are set to cover both annual and one-time startup costs over a four-year period.

State Expenditures

State expenditures are expected to increase by **$162,022 in FY 2009-10** and $68,834 per year thereafter, as shown in Table 1 on page 3. Much of costs are based on the requirements of Article XXVIII, which became law with the adoption of Amendment 54, but some other costs are attributable specifically to this bill, such as the requirements to fund the database through fees and to transfer data the Department of State's campaign finance database. This fiscal note assumes that all costs to develop, operate, and maintain the database will be paid from fees. But, since the fee revenue is not expected to be sufficient to cover costs in the first year, it is assumed that a General Fund loan to cover upfront costs will be necessary. Without this bill, all database costs would be paid from the General Fund.

Table 1. Estimated Costs of the Article XXVIII Sole Source Government Contract Database, as clarified by HB 09-1165		
Cost Components	**FY 2009-10**	**FY 2010-11**
Department of Personnel and Administration		
Personal Services (1.0 FTE)	$63,384	$63,384
Operating Expenses and Capital Outlay	6,178	950
Computer Programming	30,000	4,500
Legal Services (600 hours)	45,060	0
Subtotal - Department of Personnel and Administration	$144,622	$68,834
Department of State - Computer Programming	$17,400	$0
TOTAL	**$162,022**	**$68,834**

The **Department of Personnel and Administration** will incur $144,622 in costs in FY 2009-10, including the following:

- $30,000 in one-time costs to develop the database using computer programming services purchased from the Office of Information Technology (OIT);
- $45,060 in one-time costs to promulgate rules using legal services purchased from the Department of Law; and
- $69,562 in costs for a staff person to help develop the database, assist vendors in submitting information, set fees, and respond to inquiries from the public.

Beginning in FY 2010-11, the department's costs total $68,834 for the continuation of 1.0 FTE in the department and for ongoing computer support from OIT. All costs are to be paid from fees credited to the newly-created Sole-Source Government Contract Database Fund.

The **Department of State** will incur $17,400 in costs to allow for the transfer of information from the contract database to the department's campaign finance database. This estimate assumes 136 hours of computer programming at a cost of $100 per hour, plus 40 hours of project management at a cost of $95 per hour. These costs would be paid from the Department of State Cash Fund.

The **Governor's Office of Information Technology** and the **Department of Law** will require a reappropriation of moneys first appropriated to the Department of Personnel and Administration. This reappropriation simply provides spending authority, it does not represent an increase in expenditures over the amount identified in Table 1.

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 2.

Table 2. Expenditures Not Included Under HB 09-1165 *		
Cost Components	**FY 2009-10**	**FY 2010-11**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$6,846	$6,846
Supplemental Employee Retirement Payments	2,060	2,630
TOTAL	**$8,906**	**$9,476**

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

State Appropriations

For FY 2009-10, the Department of Personnel and Administration will require an appropriation of $144,622 from the Sole-Source Government Contract Database Fund and 1.0 FTE. Of this amount, $30,000 should be reappropriated to the Governor's Office of Information Technology and $45,060 and 0.3 FTE should be reappropriated to the Department of Law.

For FY 2009-10, the Department of State will require an appropriation of $17,400 from the Department of State Cash Fund

Departments Contacted

Personnel and Administration   Governor's Office of Information Technology
State