

**FINAL
FISCAL NOTE**

Drafting Number: LLS 10-0300

Date: May 11, 2010

Prime Sponsor(s): Rep. Court
Sen. Carroll M.

Bill Status: Postponed Indefinitely

Fiscal Analyst: Leora Starr (303-866-4105)

TITLE: CONCERNING THE PUBLIC FINANCING OF POLITICAL CAMPAIGNS FOR MEMBERS OF THE GENERAL ASSEMBLY, AND, IN CONNECTION THEREWITH, CREATING THE STATE PUBLIC ELECTION FUND TO BE FINANCED PRIMARILY BY VOLUNTARY CONTRIBUTIONS FROM COLORADO RESIDENTS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
Cash Funds		
Public Election Fund	>\$15,000	>\$15,000
State Expenditures		
Cash Funds		
Public Election Fund	\$57,190	\$107
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: The bill was postponed indefinitely by the House State, Veterans, & Military Affairs Committee on March 25, 2010.		
Appropriation Summary for FY 2010-2011: See State Appropriation section.		
Local Government Impact: None.		

** The General Assembly shall appropriate annually from the Public Election Fund to the Department of Revenue to recover its costs associated with administering the income tax checkoff. In the event that moneys in the fund are insufficient to cover these costs, the fiscal note assumes that the General Fund will offset the amount of any deficiency. Any amounts "loaned" to the fund will be reimbursed to the General Fund when available. Additionally, this amount contains computer programming costs that may be included in the Long Bill appropriation. If these costs are included, not further appropriation will be necessary but they will be reimbursed from the Public Election Fund.*

Summary of Legislation

This bill establishes a new system for partial public financing of campaigns for members of the general assembly to be financed primarily by voluntary contributions from Colorado residents. It creates a Public Election Fund and a new income tax return checkoff to collect donations for the Public Election Fund. Moneys in the fund are only to be used for the purpose of financing the campaigns of certified candidates for the general assembly and can be used to pay related administrative, implementation, and enforcement costs of the system.

The bill establishes guidelines for certification necessary for candidates seeking to become eligible to receive moneys from the fund. To the extent there is a sufficient available balance in the fund, it requires the secretary to make a one-time payment of moneys from the Public Election Fund to the candidate committee of a certified candidate seeking payment. The bill also addresses the circumstances under which the secretary may revoke the certification of a candidate, appeals of a determination by the secretary, penalties for violation, and duties of the secretary.

For income tax years commencing on or after January 1, 2010, the checkoff would be added to the Colorado income tax form as a voluntary contribution. After subtracting the Department of Revenue's costs to administer contributions, the remaining moneys would be transferred to the Public Election Fund.

Background

The 14 income tax checkoffs on the 2008 individual state income tax return received \$1.7 million in contributions from nearly 170,000 donations. According to Section 39-22-1001 C.R.S., the total amount contributed to a checkoff must be greater than or equal to \$75,000 between January 1 and September 30 during the period for which moneys are collected for the third income tax year in which the contribution appears on the Colorado income tax form or the checkoff will not appear on the form in the following year. Table 1 provides summary information on these checkoff programs.

Table 1: Value of Individual Income Tax Checkoffs for FY 2008-09 (2008 tax year)

Tax Checkoffs	Number of Donations	Total Donations	Average Donations
Military Family Relief Fund	14,779	\$213,982	\$14.48
Colorado Nongame and Endangered Wildlife Fund	18,954	210,200	11.09
Pet Overpopulation Fund	16,839	183,716	10.91
Colorado Domestic Abuse Fund	16,588	176,729	10.65
Colorado Homeless Prevention Activities Fund	14,977	162,059	10.82
Special Olympics Colorado Fund	12,980	139,097	10.72
Alzheimer's Association Fund	11,715	117,685	10.05
Breast and Women's Reproductive Cancer Fund	12,668	115,009	9.08
Colorado Healthy Rivers Fund*	11,611	97,482	8.40
Multiple Sclerosis Fund	9,331	86,978	9.32
Adult Stem Cells Cure Fund**	9,694	70,834	7.31
9Health Fair Fund**	7,499	53,814	7.18
Western Colorado State Veterans' Cemetery Fund	6,133	41,802	6.82
Colorado Easter Seals Fund***	5,943	40,476	6.81
Make-A-Wish Foundation of Colorado Fund****	0	0	0
Totals	169,711	\$1,709,863	\$10.08

* This checkoff was formerly named the Colorado Watershed Protection Fund.

** These income tax checkoffs are new and reflect collections from January 2009 through June 2009.

*** This checkoff no longer appears on the individual income tax form.

**** This checkoff first appeared on the 2009 state income tax form, thus collection data is not available.

State Revenue

The bill is expected to increase state revenue from voluntary contributions and fines. The number and value of contributions to an income tax checkoff that would benefit the Public Election Fund is unknown but is expected to be more than \$10,000 per year. Other revenue to the fund is expected to be more than \$5,000 and includes any moneys appropriated to the fund by the General Assembly, all moneys collected by the Secretary of State from federal grants, donations, and other contributions, and any penalties collected. Table 2 summarizes the potential penalties.

Table 2: Penalty Changes under HB 10-1156

Offense	Current Penalty	Proposed Penalty
Exceeding voluntary spending limits by 5 percent or more	N/A	Class 1 Misdemeanor*
		Civil Penalty at least double and up to 5 times the amount spent in violation
Paying anything of value or compensation in exchange for a qualifying contribution	N/A	Class 1 Misdemeanor*
Providing false or incomplete information	N/A	Class 1 Misdemeanor*

* According to Section 18-1.3-501, C.R.S., the minimum sentence for a class 1 misdemeanor is 6 months imprisonment, a \$500 fine, or both; the maximum sentence is 18 months imprisonment, a \$5,000 fine, or both.

State Expenditures

Total expenditures are expected to increase \$57,190 in FY 2010-11 and \$107 in FY 2011-12 based on the following assumptions.

Department of Revenue. Expenditures for the Department of Revenue are expected to increase \$30,550 in FY 2010-11 and \$107 in FY 2011-12. In FY 2010-11, the department will add a new checkoff to the income tax form which will require \$30,550 for computer programming. The bill specifies that these costs are to be paid by annual appropriation from the Public Election Fund. In the event that moneys in the fund are insufficient to cover these costs, this fiscal note assumes that the General Fund will offset the amount of any deficiency. Any amounts "loaned" to the fund will be reimbursed to the General Fund when available. Computer programming costs identified in this fiscal note may also be included in the Long Bill appropriation for the Department of Revenue. If these costs are provided in the Long Bill, no further appropriation will be necessary to implement the bill but the General Fund will be reimbursed from the Public Election Fund. An estimated \$107 would be needed for FY 2011-12 from the Public Election Fund for data entry costs.

Department of State. Expenditures for the Department of State are expected to increase \$26,640 in FY 2010-11 to meet the requirement of the bill to modify the Department's website to administer public contributions for the Public Election Fund which will require \$26,640 from the Department of State Cash Fund. Moneys in the fund shall be continuously appropriated to the Department of State for the purposes of partially financing the campaigns of certified candidates. No more than 2.5 percent of the moneys in the fund can be used for the administration and implementation for the system. In addition, this bill allows the department to revoke certification status after an evidentiary hearing if a complaint is filed. Complaints would be referred to the Office of Administrative Courts to conduct the necessary hearings at an average cost of \$2,000 per hearing beginning in 2014 when the fund is expected to reach the threshold for disbursements and complaints are most likely to occur.

Additional Expenditures For Multiple New Checkoffs

Current state law limits the number of income tax checkoffs that may appear on the state income tax form to 15 checkoffs. Thus, there is room for one additional income tax checkoff.

The General Assembly is currently debating more than one measure that creates a new state income tax checkoff. *If the General Assembly adopts more than one measure:*

- a statutory change to Section 39-22-1001 (6) C.R.S., is needed to amend the limitation on the number of voluntary contributions that are authorized to appear on the Colorado income tax return in any income tax year; and
- the Department of Revenue will have additional one-time costs of \$18,830 in the first year to create an additional schedule to handle the entire group of checkoffs. A total of 480 hours of computer programming will be needed. Based on the job rate of \$39.23 per hour for an information technology professional, \$18,830 in one-time personal services will be required. This amount is currently being revised with updated data by the department.

State Appropriations

The Department of Revenue will require an appropriation in the amount of \$30,550 from the Public Election Fund in FY 2010-11 in order to implement the provisions of the bill. The Secretary of State requires an appropriation of \$26,640 in FY 2010-11 from the Public Election Fund to implement the provisions of the bill and continuous appropriations for the purpose of administering the public financing campaigns system.

Departments Contacted

Revenue

Secretary of State