


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 11-0268

Date: February 1, 2011

Prime Sponsor(s): Rep. Balmer

Bill Status: House Finance

Fiscal Analyst: Bill Zepernick (303-866-4777)

TITLE: CONCERNING RESTRICTIONS ON THE APPEARANCE BY PUBLIC OFFICIALS IN COMMUNICATIONS PAID FOR WITH STATE MONEYS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue Cash Funds Department of State Cash Fund	Potential fine revenue. See State Revenue section	
State Expenditures Multiple Fund Sources	Potential increase. See State Expenditures section.	
FTE Position Change		
Effective Date: July 1, 2011.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: None.		

Summary of Legislation

The bill prohibits the use of state funds to pay for advertisements and communications featuring the name or likeness of certain public officials. Covered public officials include the governor, lieutenant governor, secretary of state, state treasurer, attorney general, members of the General Assembly, members of the State Board of Education, members of the Board of Regents of the University of Colorado, and district attorneys.

Exceptions to this prohibition are made for advertisements and communications required by law in order for the official to carry out his or her official duties, such as legal notices and official government websites. A person alleging a violation may file a complaint with the Department of State. A public official found to have violated the provisions of this bill is subject to a fine of \$20,000, or between 2 and 5 times the amount of the expenditure in question, whichever is greater.

State Revenue

The bill could result in an increase in civil penalties paid to the Department of State Cash Fund beginning in FY 2011-12 from public officials who inappropriately use state funds to include their name or likeness in an advertisement or communication. However, this analysis assumes that

public officials will comply with the bill and penalty revenue is unlikely to be generated. At the same time, even a small number of violations could generate significant revenue. Penalties for a violation depend on the amount of public funds spent inappropriately and the penalty factor imposed (between 2 and 5 times the amount spent), with a minimum penalty of \$20,000. The exact amount of fine revenue cannot be estimated at this time.

State Expenditures

The bill could increase costs in two areas: increased administrative law judge caseload and modifications to agency documents and other types of communications, as discussed below. Any impact is assumed to be minimal.

Administrative Law Judges. If a person files a complaint with the Secretary of State under this bill, the complaint could result in cases being referred to an administrative law judge (ALJ) in the Department of Personnel and Administration. Although this analysis assumes a high level of compliance, it could result in an unspecified number of new cases for ALJs. It is assumed that if caseload increases to a point where additional ALJs are required, these costs would be addressed through the annual budget process.

Communications Modification. This bill could increase costs to state government entities to modify documents and other communications to remove the names and images of public officials. However, because the bill prohibits the use of state funds, the fiscal note assumes that existing advertisements and communications do not need to be modified, as they have already been paid for. This analysis assumes that existing staff and resources can be used to modify any advertisement or communication that do require changes under this bill. If any agency incurs an increase in workload that exceeds available resources, these costs can be addressed through the annual budget process.

Departments Contacted

Education
Law
Personnel and Administration

Governor's Office
State
Treasury

Higher Education
Legislative Council