HB11-1301

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 11-0387	**Date:**	April 27, 2011
Prime Sponsor(s):	Rep. Waller Sen. Schwartz	**Bill Status:**	House SVMA
		Fiscal Analyst:	Josh Abram (303-866-3561)

TITLE: CONCERNING STATUTORY CHANGES TO INCREASE EFFICIENCY IN THE OPERATIONS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures* General Fund Cash Fund Revolving Enterprise Account-Correctional Industries	 Potential Increase Potential Decrease	
FTE Position Change		
Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: None.		

**See especially the discussion of Colorado Correctional Industries in the State Revenue and Expenditures section.*

Summary of Legislation

This omnibus bill makes several changes to state law concerning state institutions of higher education. These changes are summarized below.

Student fees. Under current law, the Colorado Commission on Higher Education (CCHE) establishes fee policies that the institutions must follow. This bill repeals, relocates, and modifies state law concerning the imposition of student fees. The CCHE is authorized to adopt guidelines concerning the collection and use of student fees by the institutions; however, each institution must adopt its own plan for student fees, after providing opportunities for student input.

The bill specifies minimum requirements for the institutions' fee plans. The institutions must annually review and update the plans, and make them available on a website. As soon as practicable, institutions are encouraged to provide detailed information to students and parents concerning student fees, and provide an itemized description of fees with each student's tuition bill. Fees collected by the institutions are not subject to annual appropriation by the General Assembly (under current practice, fee revenue is included in the Long Bill appropriation as a footnote, for informational purposes).

Under current law, a student may negotiate a fixed tuition and fee rate. This bill removes student fees from this arrangement, allowing a student to negotiate only a fixed tuition rate.

Creating nonprofit entities. Currently, if a state agency wishes to create a nonprofit organization, the agency must get permission from the General Assembly. Institutions of higher education may seek permission from the CCHE, instead of the General Assembly. Under this bill, the governing boards are given authority to create a nonprofit organization, if the institution's governing board determines that it is in the institution's best interests.

Indemnification. The bill allows the institutions to contract to indemnify and hold harmless a building contractor if there is a valid public purpose and the benefits of the contract outweigh the risks. The state risk management fund will not be responsible for any liability claims or expenses that may arise as a result of an indemnified contract.

Data security. Beginning July 1, 2011, and each July thereafter, the institutions must report to the Department of Higher Education (DHE) concerning the development and implementation of the institution's information security program. Upon receipt of the reports, the DHE must submit a statement of compliance with the Office of Information Technology.

Special events. The bill allows the institutions to obtain special event permits to serve alcohol at private functions.

Surplus state property. Currently, state agencies and state institutions of higher education are required to use Colorado Correctional Industries (CCi), an enterprise within the Department of Corrections (DOC), when disposing of surplus state property. The bill removes the institutions from this requirement.

Purchasing requirement. Currently, state agencies and state institutions of higher education have discretion to purchase goods and services from CCi; however, all state agencies are required to use CCi when purchasing office furniture and office cubicles. The bill removes the institutions from this requirement.

Personnel. The bill amends the types of employees that may be exempted from the state classified system to include employees in positions funded by private gifts and grants, or from revenue generated by auxiliary (self-supporting) activities. The bill removes the requirement that the president at each institution report to the Department of Personnel and Administration (DPA) a list of all positions at the institution that are exempt from the state classified system.

The bill exempts the institutions from certain limitations on personal services contracts, providing the institution's chief executive officer determines that certain conditions are met for contracts that implicate the state personnel system.

Currently, state employees may participate in a program to recognize employee ideas that improve state government operations. This bill exempts the employees of institutions of higher education from the program. State institutions are authorized to offer an employee incentive program to all employees as an alternative to the general employee incentive plan offered for state classified employees; however, the institutions' incentive plan must include most of the elements required under the state plan. The institution may also authorize administrative leave, including unpaid administrative leave, for the institutions' classified employees. Finally, this section of the bill allows the institutions to offer additional or separate group insurance plans to their classified employees.

Public Employee Retirement Association (PERA). Currently, an institution may hire up to ten PERA retirees, providing that the retirees do not work more than 140 days. This bill allows the institutions to hire these retirees for up to five years without a limitation on the number of days worked.

Capital construction. The bill clarifies that cash-funded projects that have been approved prior to January 1, 2010, are subject to the same streamlined approval process established for projects approved after this date, and that these approved projects may be reported in an annual expenditure report to the state controller instead of being reported quarterly. Higher education institution cash-funded projects approved after January 1, 2010, are not subject to appropriation.

Currently, when an institution funds a capital construction project with both state and private money, spending must be done proportionally from both sources as the project progresses. This bill allows the institution to receive the full appropriation of state moneys at anytime prior to, during, or after the receipt of the private money, but in the event there are moneys remaining after the project is completed, the institution is required to refund moneys to the state in proportion to the amount of state capital construction dollars appropriated for the project.

The bill permits the institutions to purchase land or scientific equipment without approval or oversight by the DPA, if the purchase is made without state appropriations from the Capital Construction Fund. The bill may also exempt these types of purchases from legislative oversight because they are no longer included in the definition of capital construction.

State Revenue and Expenditures

This bill will affect both state revenue and state expenditures, although the actual impact is unknown.

Institutions of Higher Education. Although all state institutions of higher education were canvassed for information for this fiscal note, only the University of Colorado supplied a response. The University of Colorado System believes that these modifications in state law will provide administrative savings and operational flexibility; however, no estimates were provided, and no further analysis of how these changes will affect the institution are available.

Department of Personnel and Administration (DPA). The bill will have no direct fiscal impact on DPA; however, the department will experience a small and temporary increase in administrative effort to adjust internal policies and to address reporting changes in the Comprehensive Annual Financial Report (CAFR). These changes can be met with existing resources and no appropriation is required.

Public Employees Retirement Association. PERA retirees that return to full time employment with institutions of higher education will pay approximately 10.5% tax on their salary, slightly increasing revenue to the association; however, benefits paid to these retirees are not changed, which may have an impact on the amortization period of PERA's current debt. It is assumed that the number of individuals hired under this provision will be small, and no measurable fiscal impact is anticipated.

Department of Corrections. The bill will decrease cash fund revenue to Colorado Correctional Industries, and may increase General Fund expenditures and related FTE for the Department of Corrections as described below.

Under current law, all state agencies, including institutions of higher education, are required to purchase office furniture and office systems, i.e., office cubicle screens and related modular components, from CCi. The bill removes this requirement for the institutions. It is assumed that some of the institutions will choose a competitive bid process instead of using CCi, thus decreasing the enterprise's sales and revenue.

In FY 2010-11, total sales for furniture, fabrication, seating, and related systems was $8.4 million. Of this amount, $6.4 million, or 76% of total sales, was received from institutions of higher education. In the furniture shop alone, total sales were $1.02 million and sales to the institutions were $609,000, or 59% of total sales. Using this shop as an example, it is estimated that sales from higher education supported 41 offender jobs, and 3.0 FTE CCi supervisors to oversee the inmates.

If the shop does not have the cash fund revenue to support the offender jobs and related supervisor FTE, these inmates are returned to the general prison population in the Department of Corrections. This results in an exchange of cash-funded positions (CCi supervisors) with General Fund positions (DOC correctional officers). This is so because the reduced number of offender work opportunities with CCi requires more offender supervision inside the facilities. The ratio of offenders to CCi supervisor versus offenders to DOC officers is approximately the same, as is the annual compensation for these state employees. Therefore, if all the institutions choose not to use CCi for furniture purchases, this shop would eliminate 41 offender positions and 3.0 FTE state employees, replacing these employees with correctional officers funded by the General Fund. In this example, General Fund expenses would increase by $131,497 and 3.0 FTE. Cash fund expenses would be reduced by a similar amount.

It is unknown which institutions will seek bids for office furniture and systems outside of CCi, and how often the institutions will choose this alternative. Since the amount of reduced furniture and office system sales is unknown, any required increase in General Fund appropriations will be addressed by the DOC during the annual budget process.

Departments Contacted

Corrections	Higher Education	JBC
Office of Information Technology	PERA	Personnel