

  
*Colorado Legislative Council Staff Fiscal Note*  
**STATE and LOCAL**  
**REVISED FISCAL IMPACT**  
 (replaces fiscal note dated February 6, 2012)

<b>Drafting Number:</b> LLS 12-0211	<b>Date:</b> February 23, 2012
<b>Prime Sponsor(s):</b> Rep. Ramirez Sen. Steadman	<b>Bill Status:</b> House Appropriations
	<b>Fiscal Analyst:</b> Jessika Shipley (303-866-3528)

**TITLE:** CONCERNING PROCEDURES RELATED TO THE COSTS OF IMPOUNDED ANIMALS.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
<b>State Revenue</b>	.	
<b>State Expenditures</b> General Fund	Minimal increase.	
<b>FTE Position Change</b>		
<b>Effective Date:</b> August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.		
<b>Appropriation Summary for FY 2012-2013:</b> None required.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

*This fiscal note is revised to reflect new information received from local impounding agencies.* The bill modifies procedural requirements related to the payment of impoundment, care, and provision costs for an animal that has been impounded due to alleged neglect, abuse, or other criminal acts involving animals. Current law allows an animal owner to file a bond with the court to cover the costs of impoundment for at least 30 days. He or she may request a hearing within ten days after impoundment to determine the reasonableness and fairness of the costs. The bill expands the purpose of the hearing to include a determination as to probable cause for the impoundment of the animal and release of the animal to the impounding agency for disposition if the owner elects not to pay the costs associated with impoundment. It specifies that the hearing must be held within ten days after the request is made by the owner.

The bill delays the payment of costs to the court until the date of the hearing and describes circumstances under which such costs must be refunded to the owner. Failure to pay impoundment costs will result in forfeiture of the right to contest the costs and any ownership rights to the animal. Finally, the bill clarifies that the criminal law procedures governing impoundments do not apply to matters brought solely in an administrative context.

## **State Revenue**

Impound cost bonds are collected by district courts and passed onto local impounding agencies. Any costs paid by an animal owner over and above the actual costs of impoundment are to be refunded to the owner. Additionally, all impoundment costs are to be refunded in the event that a judge or jury finds the owner not guilty of all charges related to the impoundment of the animal. As such, no change is expected to state revenue.

## **State Expenditures**

The bill is expected to result in a minimal increase in expenditures to the following state agencies.

***Department of Agriculture (CDA).*** To the extent that the bill increases the need for the CDA to intervene in certain cases where a local impounding agency does not, it will increase CDA expenditures. Data from local impounding agencies show no cases in the past three years in which a defendant posted bond and was found not guilty of the underlying cruelty to animals charge. For the bill to increase CDA costs, a local impounding agency would have to choose not to pursue an impoundment action where otherwise an animal would be impounded, the owner would choose to post a bond, and the owner would be found not guilty on all charges related to the original impoundment.

If CDA was required to investigate five new cases each year, expenditures would increase by approximately \$10,000 and 0.1 FTE each year. These costs assume that each case requires 50 hours of investigation by CDA staff and that 50 hours of legal services would be needed annually in order to pursue such actions in court. The fiscal note assumes this will happen very infrequently and will be addressed during the annual budget process.

***Department of Law (DOL).*** If CDA is required to investigate new cases of animal cruelty, it will require approximately 10 hours of legal services (at an hourly rate of \$75.71) for each case as a result of the provision in the bill requiring the court to refund impoundment costs to owners who are found not guilty.

***Judicial Branch.*** The bill will increase the number and duration of hearings required to determine probable cause for impoundment and the reasonableness of associated costs. It is also possible that the tight deadline for the hearings could cause delays in the courts as dockets are shuffled to accommodate the hearings related to impoundment. However, the total impact to the courts is expected to be less than 0.2 FTE, which is minimal and will be absorbed within existing resources.

### **Local Government Impact**

Local governments will incur both savings and costs as a result of the bill. The exact amount of each cannot be determined. Holding hearings within 20 days, at most, of an impoundment could lead to shorter impoundment times. While the cost of impoundment varies according to the impounding agency and the number and type of animals, the Humane Society of the Pikes Peak Region estimated that the bill would save approximately \$46,000 per year.

The bill's requirement that owners who are found not guilty be refunded the costs of impoundment could negatively impact local impounding agencies, although no recent cases have been reported matching this fact pattern. To the extent that such cases do occur, and the local agency chooses to pursue the investigation instead of passing it on to CDA as a civil matter, local costs will increase.

Additionally, moving hearings to criminal court will increase the workload of district attorneys' offices.

### **Departments Contacted**

Agriculture   Colorado Counties   Colorado Municipal League   Law   Judicial