


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 12-0307	Date: February 22, 2012
Prime Sponsor(s): Rep. Sonnenberg	Bill Status: House Judiciary
Sen. Morse	Fiscal Analyst: Kirk Mlinek (303-866-4782)

TITLE: CONCERNING THE CONTINUATION OF THE LICENSING OF PERSONS WHO FURNISH BAIL FOR COMPENSATION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Transfers or Diversions Diversion from the General Fund to the Division of Insurance Cash Fund	(\$353,247)	* (\$409,018)
State Expenditures Division of Insurance Cash Fund	\$353,247	* \$409,018
FTE Position Change	3.2 FTE	* 3.9 FTE
Effective Date: July 1, 2012.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: None.		

** Includes costs and staffing for continuing the current regulatory program, estimated at approximately \$318,000 and 3.0 FTE. Please refer to page 2 for a discussion of expenditures relating to programs that are set to expire.*

Summary of Legislation

The bill continues the regulation of bail bonding agents by the Division of Insurance (division), in the Department of Regulatory Agencies, until September 1, 2017. The bill also:

- repeals a prohibition against licensing firms, partnerships, associations, or corporations as bail bonding agents;
- replaces the daily bond register requirement with a requirement that the information be kept in a case file, and clarifies that the requirement applies to cash bonding agents and professional cash bail agents;
- requires bail-related transactions to be made on forms approved by the division; and
- requires the division to approve or deny forms submitted by bail bonding agents within a specified period.

Background

A commercial bail bond is a contract between a bail agent and a defendant (indemnitor) for purposes of securing the release of the defendant from jail. Through this transaction the bail agent guarantees the court that the defendant will appear in court as required. Failure to appear subjects the bail agent to the full liability of the bail amount established by the court. There are three types of bail agents licensed in Colorado:

- bail bond agent — appointed by an insurance company to execute bail bonds;
- professional cash bail agent — must post a \$50,000 qualification bond to act as a surety for bail, may not provide any single bail bond worth more than twice the amount of the qualification bond, and must have been licensed as a bail bonding agent for four years prior to application to become a professional cash bail agent; and
- cash bail agent — must post a \$50,000 qualification bond but is not limited on the amount of any single bail bond that can be written.

In 2009, the division licensed 531 bail bonding agents, 36 professional cash bail agents, and 4 cash bail agents. Approximately 80 percent of those licensees actively wrote bail bonds that year.

State Transfers and Diversions

This bill diverts \$353,247 from the General Fund in FY 2012-13 and \$409,018 in FY 2013-14. This revenue diversion occurs because the bill continues a program that is set to expire and increases costs in the Department of Regulatory Agencies, Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill will increase costs in the DORA for new duties created by the bill. It also continues the program set to expire at its current spending level. These costs are discussed below.

New costs. For FY 2012-13, expenditures in the Department of Regulatory Agencies will increase by \$353,247 Cash Funds and 3.2 FTE. The increase for FY 2013-14 is \$91,018 and 0.9 FTE. The source of funds is the Division of Insurance Cash Fund, which is funded through the diversion of premium tax revenue that would otherwise be deposited in the General Fund. Table 1 summarizes expenditures under the bill.

Fiscal impact of programs set to expire. This bill continues a program that is set to repeal July 1, 2012. Under current law, state agencies may be appropriated funds to wind up the affairs of an expiring program for 12 months following the repeal date. To account for the windup period, the impact of extending the program beyond the current repeal date is shown as beginning in FY 2013-14, one year after the repeal date. There is no need for an appropriation for the base budget

of the program in FY 2012-13, since the program's authorization has not yet expired, and ongoing funding for the program is included in the department's base budget request for FY 2012-13. Current funding for the program is approximately \$318,000 and 3.0 FTE. As stated above, these costs are shown in FY 2013-14 in the table on page 1. New expenditures under the bill are shown in Table 1.

Table 1. New Expenditures Under HB12-1266		
Cost Components	FY 2012-13	FY 2013-14
Personal Services	\$225,332	\$63,516
FTE	3.2	0.9
Operating Expenses and Capital Outlay	18,809	855
Legal Services	106,600	26,271
Records Imaging	1,222	376
Training	1,284	0
TOTAL	\$353,247	\$91,018

Increased costs in FY 2012-13 are for the following additional duties in the DORA created in the bill.

Rules. The bill will cause DORA to amend five rules. A Rate/Financial Analyst will spend 168 hours on this process. This equates to 0.1 FTE at a cost of \$9,972.

Receipt and manual processing of filed forms. This fiscal note assumes that each of 463 licensees will submit an average of 10 forms, for a total of 4,630 forms, in the first year. The equivalent of 0.8 FTE at the Administrative Assistant III level will be required to administratively process these submissions, at a cost of \$37,295.

Review and approval of filed forms. This fiscal note assumes that DORA will spend an average of one hour to review and approve each form. This equates to 2.3 FTE at the Rate/Financial Analyst II level, at a cost of \$178,065.

Legal services. Given the legal nature of the filings, the fiscal note assumes that DORA will seek legal assistance from the Department of Law for 25 percent of the filings. For FY 2012-13, this equates to 1,158 hours of legal service. Rule making assistance will require an additional 250 hours of legal service. At a rate of \$75.71 per hour, legal services will be \$106,600.

Records imaging. DORA will electronically image each paper filing received. At \$0.44 per page, the FY 2012-13 cost is \$1,222.

Training. DORA will ask the Department of Law to provide training in form review and approval methods. Law will require 13 hours to develop and execute the training of three DORA employees. The Department of Law will expend \$984 in this effort; DORA will expend \$300.

Operating and capital outlay. The DORA will have costs of \$18,809 for operating expenses and capital outlay costs for the various staff discussed above.

Expenditures in FY 2013-14 and future years are expected to be significantly less than the first year of implementation as bail bond forms begin to conform to acceptable standards, and as DORA staff become more proficient in reviewing submitted forms.

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 HB12-1266*		
Cost Components	FY 2012-13	FY 2013-14
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$19,717	\$5,546
Supplemental Employee Retirement Payments	12,014	3,898
TOTAL	\$31,731	\$9,444

**More information is available at: <http://colorado.gov/fiscalnotes>*

State Appropriations

For FY 2012-13, the Department of Regulatory Agencies requires an appropriation of \$353,247 and 3.2 FTE from the Division of Insurance Cash Fund, of which \$107,584 is for reappropriation to the Department of Law.

Departmental Difference

The Department of Regulatory Agencies identified the bill's cost at \$638,038 and 6.1 FTE for FY 2013-14, and \$117,826 and 1.7 FTE for FY 2012-13. These numbers assume that the department will process double the number of forms assumed in the fiscal note. This assumption drives a doubling of the legal services that will be required for the review function, to 2,315 hours, for total legal costs of \$175,269 for FY 2012-13. This amount is included in the total shown above. For FY 2013-14, total legal costs are \$53,981.

Departments Contacted

Regulatory Agencies Counties	Judicial Sheriffs	Law Local Affairs	Municipal League
---------------------------------	----------------------	----------------------	------------------