

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 12-0675

Date: February 22, 2012

Prime Sponsor(s): Rep. Acree

Bill Status: House Health and Environment

Fiscal Analyst: Kirk Mlinek (303-866-4782)

TITLE: CONCERNING A TRANSFER OF FUNCTIONS PERTAINING TO HEALTH FACILITY COMPLIANCE WITH CERTAIN BUILDING SAFETY STANDARDS FROM THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO THE DIVISION OF FIRE SAFETY IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE DEPARTMENT OF PUBLIC SAFETY, AND, IN CONNECTION THEREWITH, RENAMING THE PUBLIC SCHOOL CONSTRUCTION AND INSPECTION SECTION IN THE DIVISION OF FIRE SAFETY.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
Multiple Fund Sources		
Department of Public Health and Environment	(\$1,082,164)	(\$1,082,164)
Department of Public Safety	<u>946,164</u>	<u>\$946,164</u>
Total Reduction	(136,000)	(136,000)
State Transfers or Diversions		
Transfer from the Health Facilities Licensure Cash Fund to the Health Facility and Public School Construction and Inspection Cash Fund	Amount to be determined at fiscal year end	
State Expenditures		
Multiple Fund Sources		
Public Health and Environment	(908,228)	(734,038)
Public Safety	<u>892,571</u>	<u>665,932</u>
Total Reduction	(15,657)	(68,106)
FTE Position Change	(0.8 FTE)	(3.2 FTE)
Effective Date: Upon signature of the Governor, or upon becoming law without his signature. The bill applies to licensing of health care facilities on and after July 1, 2012.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

Currently, the Division of Fire Safety (division) in the Office of Preparedness, Security, and Fire Safety, in the Department of Public Safety (DPS), conducts construction plan reviews and performs inspections of public school buildings to determine compliance with building and fire safety codes. The Department of Public Health and Environment (DPHE) is responsible for such reviews and inspections for health facility buildings.

Effective July 1, 2012, the responsibility of inspections of health care facilities for conformity to building and fire safety standards is transferred from the DPHE to the Division of Fire Safety in DPS. This transfer includes all personnel deemed necessary to carry out the inspection program and all related property. Health facilities that do not directly provide services to individuals or do not maintain buildings for the provision of health care services are exempt from the provisions of the bill. These exempt facilities specifically include health care agencies, assisted living residences, and other facilities of a similar nature.

The bill authorizes the division to delegate plan review and inspections to a qualified local government, or to contract with third-party inspectors.

Background

In the current fiscal year, the DPHE's spending authority for the functions that are the subject of the bill total \$1.3 million, including central administration costs for benefits and indirect cost recoveries. This amount is comprised of General Fund, various cash funds, and federal funds.

The federal Social Security Act (act) mandates the establishment of minimum health and safety standards that must be met by providers and suppliers participating in the Medicare and Medicaid programs. The federal Department of Health and Human Services (DHHS) has designated the Center for Medicare and Medicaid Services (CMS) to administer the standards compliance aspects of these programs. Under current law, the Colorado Department of Public Health and Environment (DPHE) is the state agency that certifies health care facilities meeting applicable federal requirements for eligibility for Medicare and Medicaid reimbursements. Eighty percent of the facilities licensed by the DPHE that are affected by the bill are CMS certified.

Federal requirements include certification that certain health care facilities meet the fire and life safety requirements specified in the federal life safety code. Federal law allows a state agency to enter into a subagreement or contract with another state agency that is responsible for enforcing state fire code requirements. Currently, that agreement exists between the Department of Health Care Policy and Financing, the state entity that has oversight over Medicare and Medicaid, and the DPHE. The federal DHHS must approve any subagreement as a condition of continuing federal reimbursements for Medicare and Medicaid. The bill requires, and this fiscal note assumes, that this authority will be transferred to the DPS.

State Revenue

With one exception, the fiscal note assumes that overall revenue associated with health facility inspection and compliance reviews will continue near the same level as today.

Assisted Living Residences Cash Fund reduction. The bill will reduce cash fund revenue as a result of the provision that exempts home care agencies, assisted living residences, and other similar facilities that do not maintain buildings or structures at which health care services are provided. In FY 2010-11, the Assisted Living Residences Cash Fund collected a total of \$136,000. This revenue will be lost under the bill.

State Expenditures

Under the bill, net expenditures will decrease by \$15,657 and 0.8 FTE for FY 2012-13, and by \$68,106 and 3.2 FTE for FY 2013-14. The impact of the bill on the expenditures of affected agencies is summarized in Table 1.

Table 1. Net Expenditures Under HB12-1268		
Cost Components	FY 2012-13	FY 2013-14
Public Safety		
Personal Services	\$721,467	578,333
FTE	10.0	8.0
Operating Expenses and Capital Outlay	167,319	78,514
Legal Services	3,785	9,085
Total Public Safety	\$892,571	\$665,932
Public Health and Environment		
Personal Services	(792,978)	(723,427)
FTE	(10.8)	(11.2)
Operating Expenses and Capital Outlay	(115,250)	(10,611)
Total Public Health and Environment	(\$908,228)	(\$734,038)
NET FISCAL IMPACT	(\$15,657)	(\$68,106)

Department of Public Safety. Expenditures in the DPS will increase by \$892,571 and 10.0 FTE for FY 2012-13, and by \$665,932 and 8.0 FTE for FY 2013-14. The fiscal note assumes that 10 of the existing 13 personnel will be transferred from DPHE to DPS. DPS's Division of Fire Safety currently has a chief building official and managers in its plan review and inspection sections. The bill's exemption of health care providers that do not maintain central buildings for serving individual clients means that fewer inspectors will be needed. The combination of existing management and the need for fewer inspectors means that DPS will need three fewer FTE than the current 13.0 FTE in the DPHE in the first year as a result of the transfer, or a total of 10.0 FTE. The FY 2013-14 request is reduced by an additional two FTE, from 10.0 FTE to 8.0 FTE.

In addition to personal services, DPS expenditures include standard operating costs for supplies and telephones, vehicle operations, in-state travel, training, reference materials and code books, field equipment and supplies, cell phones, and one-time moving expenses. Capital outlay costs are not included as the bill requires DPHE to transfer workstation furniture and computers to DPS.

Public Health and Environment. Expenditures in the DPHE will decrease by **\$908,228 and 10.8 FTE for FY 2012-13, and by \$734,038 and 11.2 FTE for FY 2013-14.** The transfer will result in a reduction of \$1,043,245 and 13.0 FTE to the DPHE budget, including centrally appropriated costs (see Expenditures Not Included section below). Reductions are for personal services, operating costs, in-state travel, training-related out-of-state travel and registrations, publications and reference materials, field equipment and supplies, cell phone service, and vehicle leases. Insurance and indirect costs will decrease by \$230,749. These reductions are offset by an increase in expenditures for:

- rulemaking to modify licensure rules regarding life safety code requirements and licensure fees that will be conducted only in FY 2012-13 at a cost of \$28,162 and 0.4 FTE;
- coordination of the receipt of certificates of compliance from DPS with the issuance and renewal of licenses affecting 920 renewals and 20 new licenses per year, at a cost of \$9,305 and 0.2 FTE; and
- coordination of the scheduling of Medicare and Medicaid surveys and inspections with DPS, requiring \$97,605 and 1.6 FTE.

Health Care Policy and Financing (HCPF). Currently, an interagency agreement exists between DPHE and HCPF for inspection of facilities that affect HCPF clients or programs. The fiscal note assumes that DPHE will either subcontract with DPS for the inspections, or that it will move its interagency agreement from DPHE to DPS, and that the same level and frequency of inspections will result, even if DPS subcontracts the inspections. HCPF must meet the level and frequency of inspections as outlined in federal law or risk losing matching federal funds. HCPF's FY 2012-13 budget request identifies \$2.7 billion in federal matching funds. The fiscal note assumes that the bill has no fiscal impact for the HCPF.

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. Net Expenditures Not Included Under HB12-1268*		
Cost Components	FY 2012-13	FY 2013-14
Employee Insurance (Health, Life, Dental, and Short-term Disability)		
Public Health and Environment	\$(66,209)	(\$68,877)
Public Safety	61,645	49,318
Supplemental Employee Retirement Payments		
Public Health and Environment	(42,280)	(50,270)
Public Safety	38,466	35,498
Indirect Costs		
Public Health and Environment	(122,260)	(135,686)
Public Safety	89,176	67,535
Leased Space		
Public Safety	11,100	11,100
TOTAL	(\$30,362)	(\$91,382)

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

State Appropriations

For FY 2012-13, the Department of Public Health and Environment requires a negative appropriation of \$908,228 and 10.8 FTE, and the Department of Public Safety requires an appropriation of \$892,571 and 10.0 FTE. Fund sources for these appropriations will be identified in a revised fiscal note.

Departments Contacted

Public Health and Environment
Public Safety
Education
Labor and Employment
Municipal League
Treasurer

State Planning and Budgeting
Governor
Higher Education
Human Services
Counties