

*Colorado Legislative Council Staff Fiscal Note*  
**STATE and STATUTORY PUBLIC ENTITY**  
**FISCAL IMPACT**

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<b>Drafting Number:</b> LLS 12-0338	<b>Date:</b> January 27, 2012
<b>Prime Sponsor(s):</b> Rep. Szabo Sen. Grantham	<b>Bill Status:</b> House Economic & Business Development <b>Fiscal Analyst:</b> Bill Zepernick (303-866-4777)

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**TITLE:** CONCERNING THE REQUIREMENT THAT A REGULATORY ANALYSIS BE ISSUED PRIOR TO THE PROMULGATION OF RULES BY A STATE ADMINISTRATIVE AGENCY.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
<b>State Revenue</b>		
<b>State Expenditures</b>		
Total	\$249,905*	\$249,905*
General Fund	29,847	29,847
Various Cash Funds	132,874	132,874
Reappropriated Funds	12,725	12,725
Federal Funds	74,459	74,459
<b>FTE Position Change</b>	3.8 FTE	3.8 FTE
<b>Effective Date:</b> The bill is effective 30 days after becoming law upon the signature of the Governor, or becoming law without his signature. The bill applies to rules promulgated on or after this date.		
<b>Appropriation Summary for FY 2012-2013:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Statutory Public Entity Impact section.		

*\* These costs are spread across all agencies as discussed in the State Expenditures section. The fund sources provided are an estimate based on affected agencies' fund sources at the department level.*

**Summary of Legislation**

The bill requires state agencies to issue a regulatory analysis for *all* proposed at least fifteen days prior to the rule-making hearing. Agencies are exempted from issuing regulatory analyses for non-substantive changes to rules such as grammatical and formatting changes. In addition, the bill expands the scope of the regulatory analysis to include the effect of the proposed rule on jobs in Colorado, including whether the rule:

- creates or eliminates jobs;
- causes those affected by the rule to divert resources to comply with the rule; and
- requires those affected by the rule to hire additional employees or increase the costs for goods and services solely to comply with the rule.

## **Background**

Under current law, a regulatory analysis is only required if the agency is requested to conduct one. In addition, the analysis need only examine if there are less costly or intrusive methods for achieving the purpose of the proposed rule and describe alternatives to the rules that were seriously considered and why they were rejected.

## **State Expenditures**

The bill will increase workload across all state agencies by **\$249,905 and 3.8 FTE** per year beginning in FY 2012-13. Based on the mix of fund sources appropriated to the affected agencies in the current fiscal year, it is estimated that \$29,847 will be from the General Fund, \$132,874 will be from various cash funds, \$12,725 will be from reappropriated funds, and \$74,459 will be from federal funds. However, the exact fund sources for each agency have not been identified, as the fund source depends on the programs within a department involved in rule making.

**Regulatory analysis costs.** Requiring a jobs analysis for all new rules is the primary driver of costs in the bill. Costs to state agencies are mostly for staff to conduct the required regulatory analysis. Standard operating and capital outlay expenses for agencies requiring more than 0.5 FTE are also included. Staffing is assumed to be at the General Professional IV level. Table 1 provides an overview of total costs by agency.

The workload increase to agencies is based on the average number of new rules filed with the Office of Legislative Legal Services for rule review each year from 2009 to 2011. Expanding the regulatory analysis to *all* rules and requiring the additional analysis on jobs impacts are assumed to create **an additional 15 hours of regulatory analysis per rule**. In order to capture the differences in the complexity of agencies' rule making, the workload for each agency has been adjusted based on the average page length of each agency's rules compared to the statewide average for rules promulgated.

**No appropriation clause.** The bill specifies that state agencies are required to implement the provisions of this bill within existing resources and that no additional appropriation of funds or FTE is required. However, even when bills specify that no appropriation is required, legislative rules require that fiscal notes analyze the workload and cost impacts to state agencies that are expected to result from the bill. To the extent that workload increases as estimated in the fiscal note and funding is not provided in the bill, agencies may be required to seek additional funding through the annual budget process in the future.

<b>Table 1. Expenditures by Agency under HB 12-1007</b>				
<b>Agency</b>	<b>Number of New Rules</b>	<b>Staff Time Required (Hours)</b>	<b>FTE</b>	<b>Total</b>
Agriculture	13	255	0.1	<b>\$6,339</b>
Education	22	195	0.1	<b>6,339</b>
Health Care Policy and Financing	20	660	0.3	<b>19,015</b>
Human Services	34	720	0.3	<b>19,015</b>
Labor And Employment	18	375	0.2	<b>12,677</b>
Local Affairs	86	660	0.3	<b>19,015</b>
Natural Resources	35	930	0.4	<b>25,353</b>
Public Health and Environment	67	1,875	0.9	<b>62,133</b>
Public Safety	6	105	0.1	<b>6,339</b>
Regulatory Agencies	148	1,545	0.7	<b>48,325</b>
Revenue	71	450	0.2	<b>12,677</b>
State	11	180	0.1	<b>6,339</b>
Transportation	4	135	0.1	<b>6,339</b>
	<b>550*</b>	<b>8,085</b>	<b>3.8</b>	<b>\$249,905</b>

*\*The total includes rules from agencies with a small number of rules promulgated that did not have costs under the bill.*

### **Statutory Public Entity Impact**

The bill affects statutory public entities such as the Public Employee Retirement Association (PERA) that are subject to the state administrative procedure law. These entities generally have a small number of rules and can accomplish the required regulatory analyses within existing resources.

### **State Appropriations**

While the bill specifies that no appropriation is required, this analysis concludes that the following appropriation are required for FY 2012-13 (exact funding sources for each agency have not been identified at this time and will be addressed in a revised fiscal note):

- \$6,339 and 0.1 FTE to the Department of Agriculture;
- \$6,339 and 0.1 FTE to the Department of Education;
- \$19,015 and 0.3 FTE to the Department of Health Care Policy and Financing;
- \$19,015 and 0.3 FTE to the Department of Human Services;
- \$12,677 and 0.2 FTE to the Department of Labor And Employment;
- \$19,015 and 0.3 FTE to the Department of Local Affairs;

- \$25,353 and 0.4 FTE to the Department of Natural Resources;
- \$62,133 and 0.9 FTE to the Department of Public Health And Environment;
- \$6,339 and 0.1 FTE to the Department of Public Safety;
- \$48,325 and 0.7 FTE to the Department of Regulatory Agencies;
- \$12,677 and 0.2 FTE to the Department of Revenue;
- \$6,339 and 0.1 FTE to the Department of State; and
- \$6,339 and 0.1 FTE to the Department of Transportation.

**Departments Contacted**

All Departments