SB14-125

Colorado Legislative Council Staff Fiscal Note

STATE
REVISED FISCAL IMPACT

(replaces fiscal note dated February 4, 2014)

Drafting Number:	LLS 14-0687	**Date:**	March 31, 2014
Prime Sponsor(s):	Sen. Jahn; Harvey Rep. Pabon; Szabo	**Bill Status:**	House Transportation and Energy
		Fiscal Analyst:	Clare Pramuk (303-866-2677)

SHORT TITLE: TRANSPORTATION NETWORK COMPANIES REGULATION

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue	**$220,000**	**$219,520**
Revenue Change		
General Fund	<5,000	<5,000
Cash Funds	215,000	214,520
State Diversions		
General Fund	(104,302)	(70,078)
Cash Funds	104,302	(70,078
State Expenditures	**$313,849**	**$284,597**
Cash Funds	252,554	231,273
Centrally Appropriated Costs**	61,295	53,324
FTE Position Change	3.6 FTE	3.3 FTE
Appropriation Required: $252,554 - Department of Regulatory Agencies (FY 2014-15)		

* *This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.*

** *These costs are not included in the bill's appropriation. See the State Expenditures section for more information.*

Summary of Legislation

The ***reengrossed*** bill creates a limited regulatory structure for transportation network companies (TNCs) that use digital networks to connect riders to drivers who provide transportation in their personal vehicles. TNCs are exempt from the regulation for common carriers, contract carriers, and motor carriers but must be permitted by the Public Utilities Commission (PUC) in the Department of Regulatory Agencies as long as they meet certain requirements. These include:

- filing a certificate of insurance with the PUC for $1 million primary liability coverage per occurrence for incidents occurring while a network driver has a rider;
- requiring personal automotive liability insurance for all drivers;
- conducting, or having a certified mechanic conduct, a vehicle safety inspection prior to providing service and at least once per year thereafter;
- obtaining criminal history record checks and driving history reports on prospective drivers;
- prohibiting the use of drivers with certain felony convictions or moving violations; and
- providing prospective drivers and riders with specific disclosures.

Fees for a one-year permit must not exceed a total of $215,000, divided evenly among all TNCs unless the General Assembly determines an increased aggregate amount is necessary. Funds will be deposited into the newly created, and continuously appropriated, Transportation Network Company Account in the PUC Motor Carrier Fund. The PUC may promulgate rules concerning administration, fees, safety requirements, and financial responsibility requirements. After the first year, fees must be set and adjusted by rule to cover the PUC's direct and indirect costs for regulation of TNCs. The PUC may take an enforcement action against a TNC. A TNC that fails to comply with a PUC order, decision, or rule is subject to a penalty of up to $11,000 per offense depending on the violation. The PUC cannot assess a penalty against a TNC driver.

The bill clarifies that a prearranged ride provided by a TNC driver is considered a livery conveyance for insurance purposes. The time that a TNC driver is logged into the TNC network but not providing a prearranged ride, is not considered livery conveyance.

Background

There are currently two TNCs operating in Colorado; Uber and Lyft. The California Public Utilities Commission (CPUC) is the first state to regulate TNCs. In California, a 3-year permit is $1,000 and a renewal is $100. In addition TNCs must pay 0.33 percent of their gross California revenue plus a $10 administrative fee to the CPUC quarterly. A number of other states and local governments are currently considering regulatory requirements for TNCs.

State Revenue

State Diversions. This bill diverts **$104,302** from the General Fund in **FY 2014-15 and $70,078 in FY 2015-16**. This revenue diversion occurs because the bill 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.

Revenue. This bill is expected to increase cash fund revenue by **$220,000 in FY 2014-15 and $219,520 in FY 2015-16.** Of this amount, $215,000 in FY 2014-15 and $214,520 in FY 2015-16 goes to the to the Transportation Network Company Account in the PUC Motor Carrier Fund; all revenue will be used to fund PUC regulation of TNCs. Fine revenue to the General Fund is estimated as less than $5,000 per year.

Fine Revenue. This bill makes TNCs subject to civil penalties levied by the PUC. Because this is a new type of business and the type and severity of penalties are unknown, fine revenue is estimated at less than $5,000 per fiscal year.

Fee impact on individuals and business. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. The fee for FY 2015-16 is set at $107,500 per company if only two companies are permitted. For FY 2015-16 fees must be sufficient to cover the direct and indirect costs of TNC regulation and will be determined after the regulation is implemented. Based on the cost estimate in the fiscal note, fees for FY 2015-16 are indicated to be $107,260. Since there are currently only two TNCs, the fee for each will be half of the total expenditures. Table 1 below identifies the fee impact of this bill.

Table 1. Fee Impact on Transportation Network Companies*					
Type of Fee	**Current Fee**	**Proposed Fee**	**Fee Change**	**Number Affected**	**Total Fee Impact**
Transportation Network Company Permit - Year 1	0	$107,500	$107,500	2	$215,000
Transportation Network Company Permit - Year 2	107,500	107,260	(240)	2	214,520
				TOTAL	**$429,520**

* *Fee assumes two companies will be licensed. Fees will be reduced if additional companies become permitted in FY 2014-15.*

State Expenditures

This bill is expected to increase expenditures by **$313,849 and 3.6 FTE in FY 2014-15 and $284,597 and 3.3 FTE in FY 2015-16.**

Assumptions. The fiscal note is based on the following:

- two TNC's will contract with a combined fleet of 800 to 1,000 drivers;
- based on the taxi and limousine industry, the PUC will receive 400 complaints per year;
- based on auto insurance complaints for claim denials, delays, and cancellations under current law, the DOI is expected to receive 300 complaints per year;
- PUC staff will inspect at least 50 percent of vehicles;
- TNCs will operate statewide;
- rates for private passenger auto policies will increase; and
- insurance companies will make additional rate and form filings.

Table 2. Expenditures Under SB14-125		
Cost Components	**FY 2014-15**	**FY 2015-16**
Personal Services	$219,628	$179,077
FTE	3.6	3.3
Operating Expenses and Capital Outlay Costs	23,818	6,656
Legal Services (0.1 FTE FY 14-15, 0.3 FTE FY 15-16)	9,108	45,540
Centrally Appropriated Costs*	61,295	53,324
TOTAL	**$313,849**	**$284,597**

** Centrally appropriated costs are not included in the bill's appropriation.*

Department of Regulatory Agencies, PUC. This bill is expected to increase costs to the PUC **by $209,547 and 2.5 FTE in FY 2014-15** and **$214,519 and 2.1 FTE in FY 2015-16.** Regulation of TNCs will begin with rulemaking by the PUC. This is expected to require a two-day hearing with the services of an administrative law judge, hearings reporter, and 100 hours of legal services and 0.1 FTE from the Department of Law. The PUC will establish new permit and filing requirements. Once permits are issued, PUC criminal investigators will conduct vehicle inspections, and receive and investigate complaints. Complaints brought before the PUC are expected to require 500 hours of legal services and 0.3 FTE from the Department of Law annually, beginning in FY 2015-16. Ongoing staff for the regulation of TNCs include a criminal investigator and administrative assistant. Costs for the PUC include standard operating expenses, capital outlay, and travel. Detailed costs are shown in Table 2 above.

Department of Regulatory Agencies, DOI. The DOI is expected to have increased expenditures of **$104,302 and 1.0 FTE in FY 2014-15 and $70,078 and 0.9 FTE in 2015-16.** Because the fiscal note assumes that claim denials, delays, and policy cancellations will increase, the DOI is expected to have an increase in consumer complaints. The average time to resolve a complaint is six hours. An increase of 300 complaints per year will result in an additional 1,800 hours of staff time which equates to about 0.9 FTE.

The DOI routinely reviews rate and form filings during the first part of the calendar year. Legislation that requires an out-of-cycle filing generally has a fiscal impact. Each filing requires one and one half hours of review by a rate analyst and three hours of actuarial review. If as few as half of the 158 insurance companies that write private passenger auto insurance choose to file new rates and forms out-of-cycle, the DOI will have an increase of 356 hours at a cost of $13,266 and 0.1 FTE.

Because the bill includes a safety clause, these costs may begin during the current fiscal year. If a greater number of insurance companies submit out-of-cycle filings, the fiscal note assumes that a request for additional appropriations will be made during the annual budget process.

Centrally appropriated costs. 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 estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under SB14-125*

Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$21,736	$18,611
Supplemental Employee Retirement Payments	15,252	13,880
Indirect Costs	24,307	20,833
TOTAL	**$61,295**	**$53,324**

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

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. The insurance and disclosure requirements take effect July 1, 2014.

State Appropriations

For FY 2014-15, the Department of Regulatory Agencies requires a cash fund appropriation of $166,901 from the Transportation Network Company Account in the PUC Motor Carrier Fund, an appropriation of $85,653 from the Division of Insurance Cash Fund, and authorization for 3.5 FTE. The Department of Law requires $9,108 in reappropriated funds from the DORA and authorization for 0.1 FTE.

State and Local Government Contacts

Regulatory Agencies   Law