

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 14-0369  
**Prime Sponsor(s):** Sen. Heath  
 Rep. Priola

**Date:** January 21, 2014  
**Bill Status:** Senate Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**SHORT TITLE:** PUBLIC TRANSPORTATION AND UTILITY ENDANGERMENT

<b>Fiscal Impact Summary*</b>	<b>FY 2014-2015</b>	<b>FY 2015-2016</b>	<b>FY 2018-19</b>
<b>State Revenue</b>			
Cash Funds	<\$5,000	<\$5,000	<\$5,000
<b>State Expenditures</b>			
General Fund		at least \$21,484	at least \$85,936
<b>FTE Position Change</b>			
<b>Appropriation Required:</b> \$214,839 - Department of Corrections (FY 2014-15 through FY 2018-19)			

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

Under current law, tampering with a public transportation facility with the intent to cause damage is a class 3 felony crime of endangering public transportation. This bill adds the intent to steal or remove materials as additional ways to commit the crime and clarifies that the crime applies to both freight and passenger trains.

**State Revenue**

Beginning in FY 2014-15, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Branch. The fine penalty for a class 3 felony is \$3,000 to \$750,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

**State Expenditures**

This bill is expected to increase workload for agencies in the Judicial Department beginning in FY 2014-15 and state expenditures for the Department of Corrections (DOC) as of FY 2015-16.

**Five-Year Fiscal Impact on Correctional Facilities**

This bill is anticipated to increase state General Fund expenditures by at least \$214,839 for the Department of Corrections (DOC) through FY 2018-19. This increase assumes at least one offender per year will be convicted of a class 3 felony and have an average length of stay of 64.6 months.

Current law prohibits the General Assembly from passing any bill to increase periods of imprisonment in state correctional facilities without appropriating an amount sufficient to cover the increased capital construction and operating costs of the bill in each of the first five fiscal years. However, current law also allows the DOC to place offenders classified as medium custody and below in private contract prisons, for which no state capital construction costs are incurred.

Offenders sentenced under this bill to DOC may be placed in either a state-run or a private contract prison, depending on several factors. Any offenders that *must* be housed in a state-run prison will likely require a shift of other inmates in that facility to private contract prisons. Therefore, this fiscal note assumes that the impact of this bill will be accommodated through the use of private contract prisons, and that no new capital construction funds are necessary.

Offenders placed in a private contract prison cost the state about \$58.86 per offender per day, including the current daily rate of \$53.74 and an estimated \$5.12 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. Table 1 shows the estimated cost of the bill over the next five fiscal years.

<b>Table 1. Five-Year Fiscal Impact On Correctional Facilities</b>				
<b>Fiscal Year</b>	<b>Inmate Bed Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
FY 2014-15	0.0	\$0	\$0	\$0
FY 2015-16	1.0	\$0	\$21,484	\$21,484
FY 2016-17	2.0	\$0	\$42,968	\$42,968
FY 2017-18	3.0	\$0	\$64,452	\$64,452
FY 2018-19	4.0	\$0	\$85,935	\$85,935
<b>Total</b>			\$214,839	\$214,893

**Judicial Department.** Workload for trial courts is anticipated to increase to hear approximately one case per year. To the extent that a defendant is indigent, work for the Office of the State Public Defender or the Office of the Alternate Defense Counsel may also increase by a minimal amount. As of this writing, any increase is not expected to require additional appropriations. In the event that cases rise significantly in the future, the fiscal note assumes an increase in appropriations will be requested through the annual budget process.

**Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. SB14-049 amends the existing crime of endangering public transportation and utility transmission to create a new factual basis for the offense. Over the past three years, there have been three cases of the existing offense. During the same period, the Colorado Rural Electric Association identified 104 instances of commodity metal thefts. The fiscal note uses the current rate of prosecution as a proxy for measuring the increase associated with a new factual basis for the crime and assumes that one new offender will be convicted each year.

**Local Government Impact**

This bill may increase workload for prosecutors and local law enforcement to pursue additional cases of endangering public transportation and utility transmission. The fiscal note assumes this workload increase is minimal.

**Effective Date**

The bill takes effect on July 1, 2014, and applies to offenses committed on or after this date.

**State Appropriations**

The Department of Corrections requires the five-year appropriation shown in Table 1.

**State and Local Government Contacts**

Corrections  
Judicial  
Special Districts

Counties  
Local Affairs  
Transportation

District Attorneys  
Municipalities