

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

Drafting Number: LLS 15-0870	Date: February 24, 2015
Prime Sponsor(s): Sen. Neville T. Rep. Neville P.	Bill Status: Senate Business, Labor, & Technology
	Fiscal Analyst: Alex Schatz (303-866-4375)

BILL TOPIC: REGULATORY REFORM ACT 2015

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	Minimal decrease.	
State Expenditures	Workload increase.	
FTE Position Change		
TABOR Set-Aside	Minimal decrease.	
Appropriation Required: None.		

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

Summary of Legislation

Under current law, state agencies are generally authorized by the Administrative Procedures Act (APA) to initiate an enforcement action when an individual or business violates an administrative rule. This bill creates special enforcement provisions under the APA that apply to certain small businesses following a minor violation of an administrative rule. The bill also requires state agencies to develop fact sheets that will promote compliance with all new rules promulgated under the APA.

A minor violation occurs when a business of one hundred or fewer employees fails to adhere to the requirements of an administrative rule that has been in effect for less than one year. In addition, a minor violation involves only requirements that are minor in nature, such as recordkeeping, and does not include:

- a matter that places the safety of a person at risk;
- state-issued permits, licenses, or registrations;
- bidding on state contracts;
- any activity required by federal law;
- certain activities of the Attorney General's Office (AGO), and rules adopted by the Colorado Civil Rights Division (CCRD) and the Colorado Department of Public Health and Environment (CDPHE).

A state agency must issue a written warning for a first-time minor violation and perform outreach that informs the offending business how to comply with the new rule. The state agency must distribute its fact sheets to any business that violates a new rule, including both minor violations and other violations.

Background

Rulemaking under the APA requires detailed documentation, and many state agencies develop fact sheets in conjunction with, or immediately after, the rulemaking process. It is standard practice for state agencies to provide fact sheets and educational outreach to regulated businesses. As a matter of enforcement discretion under the APA, a number of agencies currently provide warnings to businesses for first-time violations and minor violations.

State Revenue

The bill decreases state revenue by a minimal amount. To the extent that state agencies currently assess financial penalties for first-time minor violations committed by businesses of one hundred or fewer employees, the bill prohibits future collection of this revenue. The fiscal note assumes that a minimal amount is collected from first-time minor violations, and the potential decrease of state revenue is therefore anticipated to be minimal.

TABOR Impact

This bill decreases state revenue, which will decrease the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

State Expenditures

Starting in FY 2015-16, the bill increases the workload required for state agencies to comply with the APA. As an initial matter, a state agency will experience a one-time increase in workload to determine whether, and to what extent, their rules concern matters of public safety; state-issued permits, licenses, or registrations; or other activities exempted by the bill. A significant amount of state regulatory activity is likely to be exempt, including, for example, the majority of programs in the Departments of Regulatory Agencies and Public Health and Environment. State agencies may require legal services to make this determination, but will do so as a part of routine legal consultation and within existing appropriations.

To implement the bill, state agencies must develop a means to track the size of businesses subject to regulation, either as part of a registration process or at the time an enforcement action is contemplated. No new appropriations are necessary for state agencies to collect this information on a case-by-case basis, and to modify agency systems and forms as part of currently budgeted updates and improvements.

All agencies are required to develop and disseminate fact sheets for new rules. Many agencies produce such fact sheets currently. To the extent that fact sheets for each new rule constitute increased workload of any given agency, a minimal effort is required to compile pertinent information from the rulemaking process in most cases. The fiscal note assumes that the development of each fact sheet includes the development of any additional educational materials intended for outreach to offending businesses. No new appropriations are required for most state agencies to comply with new APA requirements concerning fact sheets and educational outreach. Agencies that undertake especially complex or comprehensive rulemakings may seek, in the annual budget process, additional resources for outreach efforts.

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

All Departments