



**Colorado
Legislative
Council
Staff**

SB16-056

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0208
Prime Sponsor(s): Sen. Lambert

Date: February 1, 2016
Bill Status: Senate Judiciary
Fiscal Analyst: Josh Abram (303-866-3561)

BILL TOPIC: ENHANCED WHISTLEBLOWER PROTECTIONS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	<u>\$64,351</u>	<u>\$59,799</u>
General Fund	57,117	52,414
Centrally Appropriated Costs*	7,234	7,385
FTE Position Change	0.5 FTE	0.5 FTE
Appropriation Required: \$57,117 and 0.5 FTE - Office of Legislative Legal Services (FY 2016-17)		
Future Year Impacts: Ongoing state expenditures.		

Summary of Legislation

This bill expands whistleblower protections by creating review agencies to determine if information about state operations or conduct provided by a state employee is protected from inspection under the Colorado Open Records Act (CORA), or any other provision of law.

The bill designates the Office of Legislative Legal Services (OLLS), the Department of Law (the Attorney General's office), and The Commission on Judicial Discipline as whistleblower review agencies, and permits a whistleblower to disclose information to a review agency from public records that are confidential under other provisions of law. Each review agency is required to designate staff to serve as a point of contact for whistleblowers and to publish the contact information on the agency's website.

Within 30 days following receipt, a review agency must consult with the other review agencies and make a joint determination in writing if the information must remain confidential. If a review agency determines that the information received is not confidential under CORA or other law, the information may be released to the General Assembly, or to the public upon request. Within 60 days following receipt, a review agency may confer with and transfer the information to the entity having jurisdiction or authority to investigate any allegation of unlawful behavior.

Background

The Colorado Commission on Judicial Discipline is responsible for disciplinary proceedings to enforce sections of the Colorado Constitution, which provide that a justice or judge of any court of record may be disciplined or removed from office for misconduct, or may be retired for a disability that interferes with the performance of his or her duties. The commission is part of the Office of Attorney Regulation Counsel within the Supreme Court / Court of Appeals in the Judicial Department. The commission is funded from annual attorney registration fees and law examination application fees. All fee revenue is continuously appropriated to the Judicial Department. For information purposes, the anticipated cash fund expenditures for attorney regulation activities in FY 2015-16 is \$10.65 million. The Judicial Department reported actual expenditures were about \$10.23 million in FY 2014-15.

State Expenditures

For FY 2016-17, this bill increases state expenditures by \$64,351 General Fund, and 0.5 FTE. Increased state expenditures for FY 2017-18 are \$59,799 General Fund, and 0.5 FTE. Workload is increased in the Department of Law, the Judicial Department, and the OLLS. Because whistleblowers may provide information to any review agency and the three must coordinate to arrive at a joint opinion, workload is increased in all three agencies.

Department of Law (DOL). Assuming the agencies review at least one whistleblower case annually, workload increases to coordinate an analysis and review the information to determine confidentiality. Although this is expanded workload for the department, staff capacity is estimated as sufficient to implement the bill within existing appropriations. If the bill encourages more state employees to become whistleblowers, the cost to the DOL will increase. Any need for additional appropriations in the department will be handled during the annual budget process.

Commission on Judicial Discipline. The Judicial Department will have increased workload costs to implement the bill. This includes additional administrative staff support to free capacity of existing staff to address whistleblower cases, and associated operational expenses. For the next fiscal year, the commission has sufficient resources to implement the bill without increasing fees on attorneys. Should additional resources become necessary, the commission can adjust fees. The commission has continuous spending authority for this fee revenue. Therefore, no additional appropriations for the Judicial Department are required from the General Assembly.

Office of Legislative Legal Services. The OLLS does not maintain the necessary legal expertise to analyze and make a CORA determination in whistleblower cases. The office will require an increase in 0.5 FTE and operational expenses to implement the bill and to operate as a whistleblower review agency. New costs will include the hiring of a part-time attorney with specific expertise to facilitate whistleblower data reviews, and to serve as a point of contact for state employees or others wishing to disclose information. Further, the office will have operational expenses that may include additional contracting for legal services and investigatory services. Total increased costs are displayed in Table 1.

Table 1. Expenditures Under SB 16-056		
Cost Components	FY 2016-17	FY 2017-18
Personal Services	\$37,464	\$37,464
FTE	0.5 FTE	0.5 FTE
Operating Expenses and Capital Outlay Costs	5,653	950
Contracted Legal Services	8,000	8,000
Contracted Investigation Services	6,000	6,000
Centrally Appropriated Costs*	7,234	7,385
TOTAL	\$64,351	\$59,799

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

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. The bill applies to disclosures of information at any time before, on, or after the effective date.

State Appropriations

For FY 2016-17, this bill requires a General Fund appropriation \$57,117 and 0.5 FTE to the Office of Legislative Legal Services in the Legislative Branch.

State and Local Government Contacts

All Departments