


Colorado Legislative Council Staff
STATE
FISCAL IMPACT

Drafting Number: LLS 06B-2033
Prime Sponsor(s): Sen. Gordon
 Rep. Buescher

Date: July 6, 2006
Bill Status: Senate Judiciary
Fiscal Analyst: Natalie Mullis (303-866-5834)

TITLE: CONCERNING VOTING BY PERSONS WHO ARE NOT ENTITLED TO VOTE IN AN ELECTION, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2006/07	FY 2007/08
State Revenues		
General Fund	Potential Increase	Potential Increase
Cash Funds		
Fines Collection Cash Fund	Potential Increase	Potential Increase
State Expenditures		
General Fund	\$87,194*	\$26,813
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor		
Appropriation Summary for FY 2006/07: Department of Corrections: See Table 1 on page 2.		
Local Government Impact: County jail costs may decrease by a minimal amount.		

* *This amount is transferred from the General Fund to the Capital Construction Fund for prison bed construction costs. As such, it does not count against the 6 percent General Fund appropriations limit and will reduce General Fund diversions to the Highway Users Tax Fund.*

Summary of Legislation

The bill makes it a class 5 felony for a person to vote in any election when he or she is not entitled to vote in the election. Pursuant to Section 2-2-703, C.R.S., the bill also includes a five-year appropriation for prison construction.

State Revenues

The bill may increase state revenue from fines, although the increase has not been estimated. Under Section 18-1.3-401 (III) (A), C.R.S., the fine penalty for a class 5 felony is \$1,000 to \$100,000. Unless otherwise provided by law, fine revenue is deposited in the state Fines Collection Cash Fund for annual appropriations to cover associated administrative and personnel costs. All unexpended balances of the cash fund revert the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration or imposing a fine, the impact to the cash fund and the General Fund cannot be determined.

State Expenditures

The bill will increase incarceration costs for the Department of Corrections for any person convicted of voting in an election in which they were not entitled to vote and is sentenced to state prison. This fiscal note assumes that one person every four years will be sentenced to state prison under the provisions of the bill. The bill’s impact on the Department of Corrections is therefore estimated at \$87,194 in FY 2006-07, \$26,813 in FY 2007-08, and \$21,450 in FY 2008-09. Table 1 shows the projected five-year impact of the bill, estimated at \$135,457.

Five-Year Fiscal Impact on Correctional Facilities

The adoption of this bill will result in a net increase in periods of imprisonment in a state correctional facility. Section 2-2-703, C.R.S., requires that such bills cannot be passed without five years of appropriations for prison bed construction and operating costs. Construction costs are estimated to be \$87,194 per inmate bed. Operating costs are \$73.46 per bed per day, or \$26,813 per bed per year. It should be noted that the construction costs reflect the funding needed to construct inmate beds in the fiscal year prior to when additional offenders are expected to enter the system. This lag accounts for the estimated time for criminal filing, trial, disposition, and sentence.

Prison bed construction is funded through a General Fund transfer to the Capital Construction Fund, which is then transferred to the Corrections Expansion Reserve Fund. These capital-related appropriations are not subject to the 6 percent statutory General Fund appropriations limit, but General Fund appropriations for operating costs are subject to the 6 percent limit.

However, in the event state correctional facilities are at capacity, Sections 17-1-102, 104.9, and 105.5, C.R.S., authorize the Department of Corrections to permanently place state inmates classified as medium custody and below in private contract prisons. The state pays private prisons at a rate of \$50.28 per bed per day or \$18,352 per bed per year. Including administration and overhead, the state’s total cost to incarcerate in a private contract prison is \$54.37 per bed per day, or \$19,845 per bed per year.

Table 1. Five-Year Fiscal Impact on Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2006-07	0.0	\$87,194	\$0	\$87,194
FY 2007-08	1.0	\$0	\$26,813	\$26,813
FY 2008-09	0.8	\$0	\$21,450	\$21,450
FY 2009-10	0.0	\$0	\$0	\$0
FY 2010-11	0.0	\$0	\$0	\$0
Total		\$87,914	\$48,263	\$135,457

Other State Impacts

Based on the June 2006 Legislative Council Staff revenue forecast, there is enough revenue to fund a partial diversion to the Highway Users Tax Fund (HUTF) under the provisions of SB 97-1 beginning in FY 2006-07. Construction costs for new prison beds are funded outside of the 6 percent appropriations limit. Therefore, the increased expenditure needed to fund this element of the bill would serve to reduce the amount of money available for diversion to the HUTF by an equal amount. In FY 2006-07, this amounts to \$87,194.

Local Government Impact

Under current law, most voting offenses are considered misdemeanors and offenders are subject to being sentenced to county jail. To the extent that the offense identified in this bill is already being charged as a misdemeanor election-related offense, the bill may reduce the number of people sentenced to county jail.

State Appropriations

For FY 2006-07, the Department of Corrections will require a General Fund appropriation of \$87,194, in addition to the other five-year costs estimated in Table 1.

Departments Contacted

Law Secretary of State Judicial