

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 13-0909
Prime Sponsor(s): Sen. Newell
 Rep. Melton

Date: April 18, 2013
Bill Status: Senate Judiciary
Fiscal Analyst: Josh Abram (303-866-3561)

TITLE: CONCERNING THE REGULATION OF PRIVATE INVESTIGATORS BY THE DEPARTMENT OF REGULATORY AGENCIES.

| Fiscal Impact Summary | FY 2013-2014 | FY 2014-2015 |
|---|---------------------|---------------------|
| State Revenue* | | |
| General Fund | <\$5,000 | <\$5,000 |
| Cash Funds | | |
| Division of Professions and Occupations Cash Fund | 68,750 | 68,750 |
| Identification Unit Cash Fund | 9,875 | 9,875 |
| State Expenditures | | |
| Cash Funds | | |
| Division of Professions and Occupations Cash Fund | \$23,522 | \$13,587 |
| Identification Unit Cash Fund | 9,875 | 9,875 |
| FTE Position Change | 0.2 FTE | 0.2 FTE |
| Effective Date: The bill takes effect August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed, and applies to licenses and registrations requested on or after March 1, 2014. | | |
| Appropriation Summary for FY 2013-2014: See State Appropriations section. | | |
| Local Government Impact: See Local Government Impact section. | | |

* State revenue from fees exceeds state expenditures in order to pay the fixed administrative costs of the existing program in addition to indirect expenses noted in the Expenditures Not Included section of this fiscal note.

Summary of Legislation

This bill creates a mandatory licensing program for private investigators, and a mandatory registration program for private investigator apprentices. Under current law, private investigators may seek a voluntary license from the state, but are not required to do so.

The director of the Division of Professions and Occupations (division) in the Department of Regulatory Agencies (DORA) is authorized to adopt rules, establish fees, and take disciplinary actions. Beginning March 1, 2014, only those persons who meet certain requirements and have been issued a state license may use the term "licensed private investigator" or "licensed private detective." Similar title protection is given to persons who register with the division as a "registered private investigator apprentice," or a "registered private detective apprentice," and the person works under the direct supervision of a licensed professional. Both private investigators and apprentices must maintain a surety bond in an amount determined by the director of the division by rule. Conducting

private investigations without a state-issued license or without registering as an apprentice is punishable as a class 2 misdemeanor for the first offense and as a class 1 misdemeanor for second and subsequent offenses.

The bill requires that the director of the division appoint a 5-member advisory committee to make recommendations concerning the regulation of private investigators and apprentices. The advisory committee may receive *per diem* and seek reimbursement for expenses. The regulatory program and the advisory board are repealed, effective September 1, 2021, following a sunset review.

State Revenue

This bill will increase revenue from fees by an estimated \$68,750 in both FY 2013-14 and FY 2014-15. Fees for licensure are credited to the Division of Professions and Occupations Cash Fund at the DORA.

License fee impact on private investigators and private investigator apprentices. Section 2-2-322, C.R.S., requires legislative service agency review of measures that create or increase any fee collected by a state agency. Fee calculations are based on the estimated costs of the program distributed across the estimated number of licenses and registrations. This fiscal analysis is based on annual licensure and registrations; however, the actual renewal schedule is left to the discretion of the division.

Currently, 77 professionals have a voluntary license from the DORA. Initial estimates for the voluntary program anticipated as many as 500 professional investigators would seek a voluntary license; however, only 77 professionals chose to pursue the credential. Consequently, the program's fixed administrative cost of approximately \$40,000 each year requires a current fee increase in the amount of \$640. This bill changes a voluntary program into mandatory one. For this reason, this fiscal note anticipates that up to 500 professionals (400 private investigators and 100 apprentices) are required to obtain the state credential and pay a fee over the next 2 fiscal years. Fee revenue must be sufficient to pay for both direct and indirect costs of the program, including existing fixed costs and the additional administrative costs as a result of this bill. Table 1 estimates the license and registration fee impact of this bill.

| Table 1. License and Registration Fee Impact Private Investigators and Private Investigator Apprentices | | | |
|--|---------------------|------------------------|-------------------------|
| Type of Fee | Proposed Fee | Number Affected | Total Fee Impact |
| FY 2013-14 Apprentice Registration | \$275 | 50 | \$13,750 |
| FY 2013-14 PI License | \$275 | 200 | \$55,000 |
| FY 2014-15 Apprentice Registration | \$275 | 50 | \$13,750 |
| FY 2014-15 PI License | \$275 | 200 | \$55,000 |
| FY 2013-14 | | | \$68,750 |
| FY 2014-15 | | | \$68,750 |
| TWO-YEAR TOTAL | | | \$137,500 |

Fee revenue from criminal history background checks increases by \$9,875 for both FY 2013-14 and FY 2014-15. Fees for fingerprint-based criminal history background checks are credited to the Identification Unit Cash Fund in the Department of Public Safety (DPS). It is estimated that 250 additional fingerprint-based criminal history background checks will be conducted by the DPS in each of the next 2 fiscal years. The DPS charges a fee of \$39.50 per applicant.

Criminal and administrative fines. The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. The bill creates a misdemeanor criminal offense for improperly using the title "licensed private investigator" or "registered private investigator apprentice." According to Section 18-1.3-501, C.R.S., the penalty for a class 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a fine of \$250 to \$1,000, or both; the penalty for a class 1 misdemeanor is 6 to 18 months in jail, a fine of \$500 to \$5,000, or both. The bill also permits the director of the division of registrations, or his or her designee, to issue administrative fines on a graduated structure up to a maximum of \$3,000. Fine revenue is deposited into the General Fund.

State Expenditures

In FY 2013-14, this bill will result in total new costs of \$33,397 and 0.2 FTE. In FY 2014-15, total new costs are \$23,462 and 0.2 FTE. New cost components are discussed below and summarized in Table 2.

Administration - Department of Regulatory Agencies. The DORA requires additional administrative staff plus temporary contract personnel beginning in FY 2013-14 to implement the modified program for private investigator apprentices. Additional staff will assist the division to register private investigator apprentices, provide outreach to professionals in the community, issue an increased number of licenses and registrations, and help investigate and settle complaints. The DORA will also have increased costs for standard operating expenses such as printing, postage, and travel.

Advisory committee. The bill creates an advisory committee that will receive *per diem* and reimbursement for expenses.

Legal services - Department of Law. The Department of Law (DOL) will provide legal assistance to the division to interpret the act, promulgate rules, and assist in the resolution of disciplinary issues. DOL charges a blended rate of \$77.25 per hour for legal services.

Criminal history check - Department of Public Safety. It is estimated that 250 additional fingerprint-based criminal history background checks will be conducted by the DPS in FY 2013-14 and another 250 in FY 2014-15.

| Table 2. Total Expenditures Under SB13-259 | | |
|---|-------------------|-------------------|
| Cost Components | FY 2013-14 | FY 2014-15 |
| Personal Services | \$7,760 | \$7,760 |
| FTE | 0.2 | 0.2 |
| Temporary Contract Labor | 6,186 | - |
| Printing, Postage, & Other Operating Expenses | 373 | 509 |
| Legal Services | 6,953 | 2,318 |
| Advisory Committee and Staff Travel | 1,500 | 2,000 |
| Advisory Committee Expenses | 750 | 1,000 |
| Criminal History Background Checks | 9,875 | 9,875 |
| TOTAL | \$33,397 | \$23,462 |

Expenditures Not Included

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 summarized in Table 3.

| Table 3. Expenditures Not Included Under SB 13-259* | | |
|--|-------------------|-------------------|
| Cost Components | FY 2013-14 | FY 2014-15 |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$1,338 | \$1,338 |
| Supplemental Employee Retirement Payments | 476 | 539 |
| TOTAL | \$1,814 | \$1,877 |

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

Local Government Impact

The penalty for a class 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a fine of \$250 to \$1,000, or both. Because the courts have the discretion of ordering incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. On average, the state reimburses county jails at a daily rate of \$55 to house state inmates during the current fiscal year. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

State Appropriations

For FY 2013-14, this bill requires an appropriation of \$23,522 and 0.2 FTE from the Division of Professions and Occupations Cash Fund to the Department of Regulatory Agencies. Of this amount, the Department of Law requires \$6,953 in reappropriated funds.

For FY 2013-14, the Department of Public Safety requires an appropriation of \$9,875 from the Identification Unit Cash Fund.

Departments Contacted

Law

Public Safety

Regulatory Agencies