



**Colorado
Legislative
Council
Staff**

SB16-101

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 16-0953

Date: July 7, 2016

Prime Sponsor(s): Sen. Kerr

Bill Status: Postponed Indefinitely

Rep. Kraft-Tharp

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BILL TOPIC: SCHOOL BOARD ETHICS COMMISSION

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	<u>\$274,958</u>	<u>\$277,648</u>
General Fund	260,781	262,588
Centrally Appropriated Costs	14,177	15,060
FTE Position Change	2.0 FTE	2.0 FTE
Appropriation Required: \$300,781 - Colorado Department of Education (FY 2016-17)		
Future Year Impacts: Ongoing expenditure impacts.		

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

The bill establishes a code of ethics for members of governing boards of local education providers (i.e., schools, school districts, Boards of Cooperative Educational Services (BOCES)). This includes individuals elected to serve on school district boards, and individuals who serve on the governing board of a charter school or a BOCES.

The bill creates the School Board Ethics Commission in the Colorado Department of Education (CDE) as a Type 1 agency. The bill sets conditions for the commission members' selection and terms. Members serve without compensation, except they must be reimbursed for actual and necessary expenses.

The commission is given authority to receive, review, and investigate complaints related to the ethical conduct of school board members, including the conduct of board meetings under the state's open meeting laws, standards of conduct under the State Administrative Organization Act and the standards established in this bill, and any other provisions of law related to ethical codes, rules, or standards for school board members. The commission may hold hearings, compel testimony, issue findings of fact and conclusions of law, and impose sanctions. The commission is required to adopt necessary rules to carry out its designated functions.

The bill sets the conditions for the commission's consideration of alleged complaints that a school board member has violated a statute, code, standard, or rule. If the commission determines there is probable cause to support the allegation, the commission refers the matter to the Office of Administrative Courts in the Department of Personnel and Administration (DPA) for a hearing by an administrative law judge (ALJ). Once the ALJ completes the hearing and a review of factual findings, the commission must determine whether the conduct constitutes a violation of the statute, code, standard, or rule, and if so, if sanctions are appropriate. Sanctions can include a civil penalty or fine, equitable relief, the voiding of an action, censure, and the required repayment of the prevailing party's attorney's fees.

Background

Type 1 agencies. A Type 1 agency is administered under the direction and supervision of its principal department; however, a Type 1 agency exercises its statutory powers, duties, and functions, including rule-making, independently of the executive director of its principal department. Any functions of a Type 1 agency not specifically established in statute, including all budgeting, purchasing, planning, and related management functions, are conducted under the direction and supervision of the executive director of its principal department. Examples of Type 1 agencies include the State Personnel Board in the Department of Personnel and Administration (DPA), the Public Utilities Commission in the Department of Regulatory Agencies, or the Charter School Institute in the CDE.

State Expenditures

This bill increases state expenditures by \$274,958 and 2.0 FTE for FY 2016-17, and by \$277,648 and 2.0 FTE for FY 2017-18. New costs are displayed in Table 1 and described below.

Table 1. Expenditures Under SB 16-101		
Cost Components	FY 2016-17	FY 2017-18
Personal Services	\$71,610	\$78,120
FTE	2.0	2.0
Operating Expenses and Capital Outlay Costs	5,653	950
Legal Services	171,018	171,018
Commission Reimbursements	12,500	12,500
Centrally Appropriated Costs*	14,177	15,060
TOTAL	\$274,958	\$277,648

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

The estimate in this fiscal note is based on the cost for the current Independent Ethics Commission (IEC), which is similar to the proposed school board ethics commission in terms of membership and scope. According to the IEC's Annual Report, in 2014 it held 21 meetings, issued a total of 19 opinions, heard 24 complaints, responded to 19 CORA requests, and received over 100 informal advice calls.

Personal services. The CDE requires 1.0 FTE at the Senior Consultant level to staff the commission. This is consistent with funding and staffing for the IEC. New staff will be responsible for coordinating meetings, ensuring that complaints are properly filed, coordinating with the Office of Administrative Courts in the DPA, and providing general administrative oversight to the commission.

Legal services. The new ethics commission will require at least 1,800 hours in legal services from the Department of Law at a blended rate of \$95.01 per hour. This amount of legal services is equivalent to 1.0 FTE. This estimate is consistent with the amount of legal hours associated with the IEC.

Travel reimbursement. The five member commission is anticipated to meet up to 10 times annually, requiring approximately \$250 in travel reimbursement per member per meeting, for a total travel expense of \$12,500 annually.

Administrative Law Judges. The DPA charges state agencies based on actual ALJ usage, two years in arrears. Although the commission is anticipated to send cases for ALJ review, the DPA has sufficient resources such that no new appropriations are required for FY 2016-17. Should the number of cases referred require that the Office of Administrative Courts hire additional judges, increased funding will be needed in the commission's Long Bill appropriation in future years.

Centrally appropriated costs. 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under SB 16-101		
Cost Components	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,049	\$8,060
Supplemental Employee Retirement Payments	6,128	7,000
TOTAL	\$14,177	\$15,060

Effective Date

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on February 22, 2016.

State Appropriations

For FY 2016-17, this bill would have required an appropriation of \$260,781 General Fund, and an allocation of 1.0 FTE to the Colorado Department of Education. Of this amount, \$171,018 is reappropriated to the Department of Law, which also would have required an allocation of 1.0 FTE.

State and Local Government Contacts

Education

Law

Personnel