



**Colorado
Legislative
Council
Staff**

HB17-1313

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 17-1129	Date: August 30, 2017
Prime Sponsor(s): Rep. Herod; Humphrey Sen. Neville T.; Kagan	Bill Status: Signed into Law
	Fiscal Analyst: Chris Creighton (303-866-5834)

BILL TOPIC: CIVIL FORFEITURE REFORM

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	See State Revenue section.	
General Fund		
Cash Funds		
State Expenditures	<u>\$94,052</u>	<u>48,215</u>
General Fund	\$84,451	38,416
Centrally Appropriated Costs	9,601	9,799
FTE Position Change	0.5 FTE	0.5 FTE
Appropriation Required: \$84,451 - Department of Local Affairs (FY 2017-18).		
Future Year Impacts: Ongoing revenue impacts and expenditure increase.		

Summary of Legislation

This bill makes the following statutory changes related to the civil forfeiture process.

Seizure reporting process. The Department of Local Affairs (DOLA) is required to establish and maintain, by December 31, 2017, a reporting form for agencies involved in the seizure of property (seizing agencies) to use in submitting biannual seizure reports. DOLA is also required to establish and maintain a searchable public access database for seizure-related information. Seizing agencies are required to submit seizure information on the form created by DOLA twice annually by June 1 and December 1, unless the report could disclose confidential information. DOLA is required to send notice to any seizing agency that failed to file a biannual report within 30 days after the report was due and is authorized to levy a civil fine against the seizing agency if there was not good cause for the failure to report.

Forfeiture proceeds. Seizing agencies may only receive forfeiture proceeds from the federal government if the aggregate value of the property and currency seized is over \$50,000 and if the seizure was initiated by the federal government and related to a filed criminal case.

Reporting. DOLA is required to submit a report summarizing seizure and forfeiture activity in the state to the Governor, Attorney General, and General Assembly by December 31, 2019, and each December 31 thereafter. The Department of Human Services is currently required to prepare an annual accounting report of moneys received from the distribution of personal property profits. This requirement expires February 21, 2021.

State Revenue

This bill is expected to both increase and decrease state revenue as described below.

Fines. This bill increases state General Fund revenue by creating a civil fine for any agency that fails to file timely biannual reports without good cause. This analysis assumes a high level of compliance. It is assumed that any revenue generated will be deposited to the General Fund.

Lost forfeiture revenue. Under this bill, state agencies can only receive forfeited proceeds from the federal government if the aggregate value is over \$50,000 and if the seizure was initiated by the federal government and related to a filed criminal case. Currently, much of the seizure related work performed by the Colorado State Patrol and the Colorado Bureau of Investigation in the Department of Public Safety (DPS) is done through participation with federal task forces and the Department of Law is a member of the Organized Crime Drug Enforcement Task Force. By establishing the \$50,000 threshold this bill will reduce cash fund revenues in the DPS and the Department of Law from participation with multi-agency task forces. The extent of this decrease is unknown and will depend on state agency seizure activity and the proceeds received from those activities.

State Expenditures

This bill increases costs in DOLA by \$94,052 and 0.5 FTE in FY 2017-18 and \$48,415 and 0.5 FTE in FY 2018-19 and future years. Costs and workload are also impacted in the Judicial Department and the departments of Human Services, Corrections, Law, Natural Resources, Public Safety, and Revenue. These impacts are shown in Table 1, and discussed below.

Table 1. Expenditures Under HB17-1313		
Cost Components	FY 2017-18	FY 2018-19
Personal Services	\$24,814	\$26,971
FTE	0.5 FTE	0.5 FTE
Operating Expenses and Capital Outlay Costs	5,178	475
Printing and Postage	4,500	3,000
Legal Services	4,753	1,426
Computer Programming	44,486	5,824
Vehicle Mileage	720	720
Centrally Appropriated Costs*	9,601	9,799
TOTAL	\$94,052	\$48,215

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

Department of Local Affairs. To implement this bill, 0.5 FTE of a program coordinator is needed. In FY 2017-18, 960 hours of staff time is needed to implement the program, create the reporting form and searchable database, provide outreach and technical assistance to seizing agencies, and process one report submitted by seizing agencies. In FY 2018-19 and beyond, 1,040 hours of staff time is needed to process two biannual report submissions, perform outreach, and complete annual reports. Expenditures also increase for printing and postage for sending notices by certified mail to seizing agencies that fail to report, legal services associated with the levying of civil fines and collection of outstanding penalties, and computer programming. Computer programming expenditures are based off 403 hours of programming time to create the seizure form and establish a searchable public access database in FY 2017-18 and 52 hours to upgrade and maintain the system in FY 2018-19. The Office of Information Technology will complete the computer programming work using funds reappropriated from DOLA. Should additional appropriations be needed to implement this bill, they will be requested by DOLA through the annual budget process.

Judicial Department. By allowing DOLA to levy civil fines and to pursue legal action to enforce civil fines, this bill increases trial court workload in the Judicial Department. This impact is expected to be minimal and will not require a change in appropriations to the Judicial Department.

Other state agencies. This bill impacts other state agencies that participate in seizure activities. This includes the departments of Corrections, Law, Natural Resources, Public Safety, and Revenue. Workload for these agencies is increased to track seizure activity and report on the receipt of and use of forfeited proceeds. Costs are potentially increased to pay any fines assessed for not reporting in a timely manner. A high level of compliance is expected, therefore, it is assumed these impacts can be addressed within existing appropriations. Should additional appropriations be needed by any of these agencies, the fiscal note assumes they will be requested through the annual budget process.

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.

Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$4,378	\$4,382
Supplemental Employee Retirement Payments	2,223	2,417
Leased Space	3,000	3,000
TOTAL	\$9,601	\$9,799

Local Government Impact

This bill impacts local government seizing agencies, including law enforcement agencies and district attorneys, in the several ways. First, similar to the state, revenue from seizures with an aggregate value of less than \$50,000 or from seizures not initiated by the federal government and related to a filed criminal case will be reduced. Second, workload and costs are increased to track seizure activity and report biannually on the receipt of and use of forfeited proceeds. Lastly,

to the extent that a local seizing agency fails to file a timely report without good cause, costs will increase to pay the civil fine. The exact impact will vary by local government depending on their level of involvement in seizure activities and the proceeds received from those activities.

Effective Date

This bill was signed into law by the Governor on June 9, 2017, and became effective on August 9, 2017. It applies to seizures conducted on or after this date.

State Appropriations

For FY 2017-18, consistent with the fiscal note, this bill requires and includes a General Fund appropriation of \$84,451 and an allocation of 0.5 FTE to the Department of Local Affairs. Of this amount, \$44,486 is reappropriated to the Office of Information Technology.

State and Local Government Contacts

Agriculture
District Attorneys
Judicial
Municipalities
Public Safety
Sheriffs

Corrections
Human Services
Law
Natural Resources
Regulatory Agencies

Counties
Information Technology
Local Affairs
Public Defender
Revenue