



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

FINAL FISCAL NOTE

Drafting Number: LLS 18-0079
Prime Sponsors: Rep. Salazar
 Sen. Moreno; Coram

Date: June 21, 2018
Bill Status: Postponed Indefinitely
Fiscal Analyst: Chris Creighton | 303-866-5834
 Chris.Creighton@state.co.us

Bill Topic: POST BOARD REVOKE CERT FOR UNTRUTHFUL STATEMENT

Summary of Fiscal Impact:

- State Revenue (minimal)
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill requires the revocation of a peace officer standards and training (POST) certification when the POST Board receives notice from a law enforcement agency that a peace officer made untruthful statements or omitted material facts. This bill increases state revenue and expenditures and may increase local government workload and costs. These impacts are ongoing.

Appropriation Summary: For FY 2018-19, this bill requires an appropriation of \$40,692 to the Department of Law.

Fiscal Note Status: This fiscal note reflects the reengrossed bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 18-1076**

		FY 2018-19	FY 2019-20
Revenue		-	-
Expenditures	Cash Funds	\$40,692	\$35,990
	Centrally Appropriated	\$12,421	\$11,928
	Total	\$53,113	\$47,918
	Total FTE	0.6 FTE	0.6 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

This bill requires the revocation of POST certification when the POST Board receives notice from a law enforcement agency that a peace officer knowingly made an untruthful statement or knowingly omitted a material fact on a criminal justice record, while testifying under oath, or during an internal affairs investigation or comparable administrative investigation. The law enforcement agency must certify that it has completed a process to review, and determined through clear and convincing evidence, that the officer knowingly made an untruthful statement or omitted material fact. This certification must be provided to the POST Board on a form created by the POST Board. A peace officer may appeal the revocation under POST Board rules.

Background

Under current law and POST Board rules, POST certifications are revoked for any felony conviction, certain misdemeanors, and if the certification is found to have been issued under fraudulent pretenses. Under such circumstances a hearing is held. If the POST director determines a peace officer's certification should be revoked after this hearing, the director briefs the POST Board of the circumstances and this recommendation. After the POST Board votes on the revocation, an affected peace officer may appeal the revocation and have their appeal heard by a POST Board subcommittee. Any action taken by the subcommittee is considered final, but may be appealed in district court. In some circumstances, a peace officer may be ordered to undergo renewal of their POST certification, which requires the payment of \$150 for taking the POST exam and \$375 for skills testing, for a total of \$525.

Assumptions

There are approximately 13,000 POST certified peace officers in Colorado. While a high level of compliance is assumed, this bill will increase the number of POST Board peace officer hearings regarding the possible revocation of POST certification. For the purposes of this analysis, it is assumed that 0.5 percent, or 65 peace officers, will go through the revocation process described above annually. If the number of affected peace officers is higher or lower than 65, the fiscal note assumes appropriation adjustments will be made through the annual budget process.

State Revenue

Beginning in FY 2018-19, this bill increases state revenue from POST Board fees and civil filing fees as described below.

POST Board fees. State cash fund revenue credited to the POST Board Cash Fund will increase by \$525 for each peace officer ordered to renew their POST certification. It is unknown how many will be required to do this; therefore, this impact has not been estimated. For informational purposes only, if all 65 peace officers identified in this analysis were required to renew their POST certification, cash fund revenue will increase by \$34,125.

Civil filing fees. To the extent that any peace officer challenges a POST certification revocation in district court, state cash fund revenue from civil filing fees will increase by \$224 per filing. It is unknown how many challenges will occur. For informational purposes only, if all 65 peace officers identified in this analysis challenge their POST certification revocation, revenue will increase by \$14,560.

TABOR Refund

This bill increases state revenue from POST Board fees and filing fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

This bill will increase state cash fund expenditures in the Department of Law by \$53,113 and 0.6 FTE in FY 2018-19 and \$47,918 and 0.6 FTE in FY 2019-20 and future years. Workload is also increased in the Judicial Department and potentially increased in state agencies that employ peace officers. These impacts are shown in Table 2 and discussed below.

**Table 2
Expenditures Under HB 18-1076**

	FY 2018-19	FY 2019-20
Department of Law		
Personal Services	\$34,460	\$34,460
Operating Expenses and Capital Outlay Costs	\$6,232	\$1,530
Centrally Appropriated Costs*	\$12,421	\$11,928
FTE – Legal Services	0.6 FTE	0.6 FTE
Total Cost	\$53,113	\$47,918
Total FTE	0.6 FTE	0.6 FTE

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

Department of Law. The Department of Law requires 0.6 FTE for a compliance investigator to implement this bill. This staff will assist in the POST Board review process for POST certification revocations, which includes compiling and reviewing reports, transcripts, and internal affairs documentation, scheduling hearings, and providing correspondence to all parties involved. It is anticipated that 65 peace officers will have their certification subject to revocation and each will take 20 hours, for a total of 1,300 hours per year.

Judicial Department. To the extent that a peace officer challenges a POST certification revocation, workload will increase in the trial courts to hear this challenge. Of the 65 anticipated revocations for untruthful statements or omitted materials each year, it is unknown how many of these will be challenged in court. Because a district court judicial officer can process approximately 550 civil cases per year, this impact is anticipated to be minimal and can be accomplishing within existing appropriations.

State agencies. To the extent that a state agency's POST certified peace officer makes an untruthful statement or omits material facts, this bill increases workload for state agencies to provide information related to the false statement or omission to the POST Board and to assist in the investigation. Recruitment, training, and other hiring and on-boarding costs may also be incurred for the replacement of a peace officer, to the extent that a peace officer's POST certification is revoked as a result of this bill. This includes the departments of Corrections, Law, Natural Resources, Public Safety, Revenue, and institutions of Higher Education. It is assumed that this impact will be minimal and any required future appropriations will be requested through the annual budget process by the affected agency.

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. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$12,421 in FY 2018-19 and \$11,928 in FY 2019-20 and future years.

Local Government

Law enforcement agencies. Similar to the state, to the extent that a local law enforcement agency peace officer makes a false statement or omits facts, workload will increase to provide information to the POST Board and to assist with the investigation. Recruitment, hiring, and training costs may also be incurred to the extent that a peace officer's POST certification is revoked as a result of this bill.

Effective Date

This bill was postponed indefinitely by the Senate Appropriations Committee on May 9, 2018.

State Appropriations

For FY 2018-19, this bill requires an appropriation of \$40,692 from the POST Board Cash Fund and an allocation of 0.6 FTE to the Department of Law.

State and Local Government Contacts

Corrections	Counties	Higher Education
Information Technology	Judicial	Law
Municipalities	Natural Resources	Public Safety
Sheriffs		