



Legislative
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Nonpartisan Services for Colorado's Legislature

HB 19-1264

FINAL FISCAL NOTE

Drafting Number: LLS 19-1046
Prime Sponsors: Rep. Roberts; Wilson
Sen. Winter

Date: July 25, 2019
Bill Status: Signed into Law
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Bill Topic: CONSERVATION EASEMENT TAX CREDIT MODIFICATIONS

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill extends the Conservation Easement Oversight Commission and the conservation easement certification program in the Department of Regulatory Agencies until 2026, which increases state expenditures annually beginning in FY 2019-20.

Appropriation Summary: For FY 2019-20, the bill includes a General Fund appropriation of \$250,000 to the Department of Higher Education and a cash fund appropriation of \$500,000 to the Department of Regulatory Agencies and 3.75 FTE.

Fiscal Note Status: This fiscal note reflects the enacted bill.

**Table 1
State Fiscal Impacts Under HB 19-1264**

		FY 2019-20	FY 2020-21
New Impacts			
Revenue	General Fund	-	-
Expenditures	General Fund	\$250,000	\$250,000
Continuing Program Impacts			
Revenue	Cash Funds	\$500,000	\$500,000
Expenditures	Cash Funds	\$500,000	\$500,000
	FTE	3.8 FTE	3.8 FTE
TABOR Refund		-	-

* Table 1 shows the new impacts resulting from changes to the program under the bill, and the continuing impacts from extending the program beyond its current repeal date.

Summary of Legislation

Sunset. Under current law, the Conservation Easement Oversight Commission in the Division of Conservation in the Department of Regulatory Agencies (DORA), and the program to certify conservation easement holders, repeal on July 1, 2019. This bill extends the commission and program until July 1, 2026.

Conservation easement tax credit certification. Under current law, the Board of Real Estate Appraisers in the Division of Real Estate in the DORA must establish classroom education and experience requirements for appraisers who prepare a real estate valuation for a conservation easement for which a tax credit is claimed. The board may not issue a tax credit certificate for a conservation easement unless the appraiser who prepared the valuation is in compliance with these education requirements. This bill removes this power and duty from the board.

Workgroup. The bill requires the Division of Conservation in DORA to convene a working group of stakeholders and, in conjunction with the Department of Law (DOL) and the Department of Revenue (DOR):

- propose statutes and regulations for an alternative method to the existing appraisal process for certifying the value of a conservation easement tax credit;
- develop eligibility criteria and a process to provide retroactive tax credits to taxpayers who's conservation easement tax credit claim was denied in whole or in part from 2000 to 2013; and
- report recommendations to the General Assembly no later than December 1, 2019.

Disclosures. Beginning January 1, 2020, the owner of a property who is granting a conservation easement must execute a disclosure, developed by the Division of Conservation and made available online that includes, but need not be limited to, an acknowledgment that the easement is being granted in perpetuity. A signed disclosure must be submitted to the division with the tax credit application.

Conservation easement termination. Under current law, a conservation easement may be released or terminated if the holder of the easement purchases the property outright from the property owner. This bill prohibits termination of a conservation easement under these circumstances if a state income tax credit has been allowed for the easement. If it is determined that conditions on or surrounding a conservation easement have changed to prevent the easement's conservation purposes, a court may terminate the easement at the joint request of both the easement holder and the property owner. Similarly, if the public condemnation of property under a conservation easement renders the easement impossible to fulfill its conservation purposes, the easement may be terminated by the condemnation process.

COMaP. The bill allows the Department of Higher Education (DHE) to enter a limited purpose fee-for-service contract with Colorado State University to provide public access to the Colorado Ownership, Management, and Protection (COMaP) service, and appropriates \$250,000 General Fund to the DHE for the cost of that contract.

Tax credit. Under current law, a conservation easement tax credit may not exceed \$1,500,000 per donation. This bill increases the limit to \$5,000,000. Credits may be issued in increments of no more than \$1,500,000 per year. Credits for easements donated in a prior year are eligible for tax credit certificates in subsequent years in the order of application.

State Expenditures

New program impacts. The bill allows the Department of Higher Education to enter into a limited purpose fee-for-service contract with Colorado State University to provide public access to the Colorado Ownership, Management, and Protection (COMaP) service, and appropriates \$250,000 General Fund to the DHE for the cost of that contract.

The bill also requires that the Division of Conservation in the DORA develops a standard disclosure statement for use by individuals donating a conservation easement, and also requires that the division convene a work group of stakeholders and representatives of state agencies to provide input to the oversight commission on various issues. These efforts do not require new appropriations.

Continuing program impacts. The DORA has no direct revenue or expenditures to administer the Conservation Easement Oversight Commission but does receive and spend approximately \$500,000 in fee revenue and employs 3.8 FTE annually to support the program to certify conservation easement holders. The bill extends the oversight commission and the certification program until 2026. This fiscal note assumes that the division will continue to have revenue and expenditures equivalent to the existing program. These resources also support the work of the oversight commission.

Effective Date

The bill was signed into law by the Governor on June 3, 2019, and took effect June 20, 2019; except that sections 10-14 take effect on October 1, 2019.

State Appropriations

Consistent with this final fiscal note, for FY 2019-20, the bill includes:

- a General Fund appropriation of \$250,000 to the Department of Higher Education, which is reappropriated for a fee-for-service contract at Colorado State University; and
- a cash fund appropriation of \$500,000 from the Conservation Cash Fund to the Department of Regulatory Agencies, and 3.8 FTE.

State and Local Government Contacts

Higher Education
Law
Revenue

Information Technology
Natural Resources

Judicial
Regulatory Agencies