



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 21-0647 Date: March 10, 2021
Prime Sponsors: Rep. Bacon; Ricks Bill Status: House Trans. & Local Govt.
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Bill Topic: HISTORICALLY UNDERUTILIZED BUS LOCAL GOVT PROCUREMENT

- Summary of Fiscal Impact:
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - Local Government / School Districts
 - Statutory Public Entity

This bill requires local governments to collect data on the participation of historically underutilized businesses in each local government's procurement process for a period of five years, and submit the data to the Department of State. The bill increases state expenditures in FY 2021-22 and FY 2022-23 only, and increases local government workload through FY 2028-29.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$66,700 to the Department of State.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 21-1168

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	Cash Funds	\$66,700	\$200,100
Expenditures	Cash Funds	\$66,700	\$200,100
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill requires local governments with an annual operating budgets of \$500 million to collect data regarding the participation of historically underutilized businesses in local government procurement beginning July 15, 2023, and for five years thereafter. Local governments are defined to include counties, city and counties, cities, towns, special districts, home rule jurisdictions, and school districts.

Historically underutilized businesses are defined as businesses that are at least 51 percent owned and controlled, in both the management and day-to-day business decisions, by one or more individuals who are: members of a racial or ethnic minority group; non-Hispanic Caucasian women; persons with physical or mental disabilities; members of the lesbian, gay, bisexual, and transgender community; or veterans.

Local governments are required to annually report data on the participation of historically underutilized businesses in their procurement to the Department of State by November 15, 2024, each year for five years. The Department of State is required to share the summarized data with the Department of Local Affairs (DOLA), which is to be included in DOLA's SMART Act hearing.

State Revenue

This bill will increase cash fund revenue to the Department of State by up to \$266,800 over a two-year period in FY 2021-22 and FY 2022-23. The revenue is from business filing fees, which are deposited into the Department of State Cash Fund. This additional fee revenue is subject to TABOR.

Fee impact on businesses and professions. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Under current law, the Department of State is authorized to adjust fees so that the revenue generated approximates its direct and indirect costs. The department is primarily funded through business filing fees. To cover the costs described in the State Expenditures section below, fees will need to be raised to cover all or some of the costs of this bill. The fees affected and the actual amount of fee charges will be set administratively by the SOS based on cash fund balance, total program costs, and the estimated number of professional activities subject to fees.

State Expenditures

The bill increases costs in the Department of State by \$66,700 in FY 2021-22 and \$200,100 in FY 2022-23, paid from the Department of State Cash Fund. Workload will also increase for DOLA, as detailed below.

Department of State. The department's Information Technology Division will hire a contractor to develop an electronic filing system for local governments to report data on historically underutilized businesses. Costs are estimated at \$266,800 over two fiscal years, and reflect an estimated 2,320 hours at an hourly rate of \$115. The scope of work includes developing an application to accept local government user and procurement data, allow for filing changes, and automate reporting. It is expected that approximately 25 percent of the work will be completed in FY 2021-22 (\$67,000), with the project completed in FY 2022-23 (\$200,100). Workload will also increase for Business and Licensing

Division staff to assist in developing the online filing system at an estimated 135 hours; however, no change in appropriations is required.

Department of Local Affairs. DOLA will present summary data prepared by the Department of State during its annual SMART Act hearing. No change in appropriations is required.

TABOR refunds. Under the December 2020 Legislative Council Staff Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

Local Governments and School Districts

Workload will increase for local government entities with operating budgets at \$500 million to collect the data required under the bill and to file the data electronically through the Department of State's e-filing system from FY 2023-24 through FY 2028-29. Based on a DOLA analysis, the City and County of Denver and, potentially, the City of Aurora meet the bill's criteria. In addition, several school districts may be included. The actual number of participating local governments could vary based on how operating budgets are calculated. These jurisdictions will have legal and administrative costs to determine which businesses in their jurisdictions meet the definition of historically underutilized and ongoing operating costs to collect and report the required data.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$66,700 from the Department of State Cash Fund to the Department of State.

State and Local Government Contacts

Counties

School Districts

Local Affairs

Secretary of State

Municipalities

Special Districts