



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 22-0300	Date:	February 3, 2022
Prime Sponsors:	Sen. Ginal; Woodward Rep. Larson; Young	Bill Status:	Senate HHS
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Bill Topic: INTERSTATE LICENSED PROFESSIONAL COUNSELOR COMPACT

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" 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 permits Colorado to join the interstate licensed professional counselor compact. The bill increases state expenditures starting in FY 2022-23 and increases state revenue starting in FY 2023-24.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$104,538 to the Department of Regulatory Agencies.

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

**Table 1
State Fiscal Impacts Under SB 22-077**

		Budget Year FY 2022-23	Out Year FY 2023-24	Out Year FY 2024-25
Revenue	Cash Funds	-	\$304,200	\$162,000
	Total Revenue	-	\$304,200	\$162,000
Expenditures	Cash Funds	\$104,538	\$199,766	\$76,226
	Centrally Appropriated	\$14,580	\$44,294	\$21,189
	Total Expenditures	\$119,118	\$244,060	\$97,415
	Total FTE	0.3 FTE	1.5 FTE	0.9 FTE
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	-	\$263,700	Not Estimated

Summary of Legislation

The bill permits Colorado to enter into the interstate licensed professional counselor compact. The compact would allow licensed professional counselors who hold a Colorado license or another participating state's license to practice in any state participating in the compact, also called privilege to practice. A counselor licensed in a state that is a member of the compact may practice in each member state, including via telehealth. Individuals that do not reside in a member state may apply for a license from a member state, but are not entitled to the privilege to practice in other member states of the compact.

Entering the compact. To be eligible to join the compact, Colorado must license and regulate professional counselors, require counselors to pass a nationally recognized exam approved by the commission, require a certain level of graduate course work and supervised postgraduate professional experience, and have a mechanism to receive and investigate complaints. Once entered into the compact, Colorado must participate in the Counseling Compact Commission's data system, notify the commission of any adverse action against a licensee, complete a criminal history background check of licensees, comply with the rules of the commission, require applicants to obtain or retain a license in their home state, allow licensed counselors in other member states to practice in Colorado, and provide representation on the commission. Finally, the bill allows states to charge a fee to grant privilege to practice under the compact.

Counseling Compact Commission. The bill establishes the Counseling Compact Commission to oversee the compact. The commission is made up of delegates from member states. The bill lays out the different powers of the commission, including meeting and taking actions consistent with the provisions of the compact, promulgating rules, handling legal proceedings or actions, hiring employees, and performing other necessary tasks. In addition, the commission must also elect an 11-member executive committee to recommend changes to the compact, ensure compact administration services are appropriately provided, prepare and recommend a budget, maintain financial records, monitor state compliance, establish additional committees, and any other duty that is provided in rules or bylaws.

Other requirements. The bill also lays out other requirements in the compact including provisions surrounding active military personnel and their spouses, telehealth, adverse action, data reporting, and rulemaking for the commission.

Effective date. The compact will come into effect when the 10th member state enacts the compact into law.

Background

Currently, only two states, Georgia and Maryland, have passed legislation enacting the compact. There are currently 13 states with legislation pending. As of June 30, 2021, there are around 12,000 licensed professional counselors in Colorado.

Assumptions

The fiscal note assumes that the compact will take effect by July 1, 2023, following its enactment by several state legislatures during the 2022 session. It is assumed that the costs of the compact in Colorado will be paid through a yearly fee levied on professional counselors who choose to participate in the compact. Further, the fiscal note assumes that 30 percent of licensed professional counselors, or 3,600 of them, will participate in the compact.

State Revenue

Starting in FY 2023-24, the bill will increase state cash fund revenue by \$304,200 in FY 2023-24 and \$162,000 in FY 2024-25. Revenue to the Professions and Occupations Cash fund within DORA will increase from fees paid by professional counselors to participate in the compact, and revenue to the CBI Identification Unit Cash Fund in the Department of Public Safety (DPS) will increase from additional background checks conducted on applicants to the compact.

Fee impact on licensed professional counselors. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. The table below identifies the fee impact of this bill and sets the fee at an amount to cover the first three years of costs.

Table 2
Fee Impact on Licensed Professional Counselors

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2023-24	Compact fee	\$45.00	3,600	\$162,000
	FY 2023-24 Total			\$162,000
FY 2024-25	Compact fee	\$45.00	3,600	\$162,000
	FY 2024-25 Total			\$162,000

Fingerprint-based background checks. This bill increases state cash fund revenue from fingerprint-based criminal history background checks to the CBI Identification Unit Cash Fund in the DPS by \$142,200 in FY 2023-24. This assumes there will be 3,600 checks conducted in FY 2023-24 when the compact takes effect. The current fee for background checks is \$39.50, which includes \$11.25 for a Federal Bureau of Investigation (FBI) fingerprint based check, which is passed on to that federal agency. The federal portion of this fee is excluded from the state TABOR limit, meaning \$101,700 is subject to TABOR. The background check is required only upon initial licensure.

State Expenditures

The bill increases state expenditures in DORA and the DPS by \$119,118 in FY 2022-23, \$244,060 in FY 2023-24, and \$97,415 in FY 2024-25 from the Professional and Occupation Cash Fund and the CBI Identification Unit Cash Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3
Expenditures Under SB 22-077**

Cost Components	FY 2022-23	FY 2023-24	FY 2024-25
Department of Regulatory Agencies			
Personal Services	\$18,338	\$55,011	\$55,011
Operating Expenses	-	\$1,215	\$1,215
Capital Outlay Costs	\$6,200	-	-
Computer Programming	\$80,000	\$10,000	\$3,000
Travel and Dues		\$19,000	\$17,000
Centrally Appropriated Costs ¹	\$14,580	\$22,044	\$21,189
FTE – Personal Services	0.3 FTE	0.9 FTE	0.9 FTE
DORA Subtotal	\$119,118	\$107,270	\$97,415
Department of Public Safety			
Personal Services	-	\$34,234	-
Operating Expenses	-	\$810	-
Capital Outlay Costs	-	\$6,200	-
Other Fingerprint Costs	-	\$33,796	-
FBI Pass through	-	\$40,500	-
Centrally Appropriated Costs ¹	-	\$22,250	-
FTE – Personal Services	-	0.6 FTE	-
DPS Subtotal	-	\$137,790	-
Total	\$119,118	\$244,060	\$97,415
Total FTE	0.3 FTE	1.5 FTE	0.9 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Regulatory Agencies. Expenditures within DORA will increase by \$119,118 in FY 2022-23, by \$107,270 in FY 2023-24, and by \$97,415 in FY 2024-25. Costs are expected to be paid from the Professions and Occupations Cash Fund within the department. More detail on costs can be found below.

- **Staffing costs.** DORA will require 0.9 FTE to oversee the compact, set up new compact requirements, assist with researching and promulgating rules, conduct outreach and education, oversee any complaints, review applications, and conduct any investigations. Staffing costs are

assumed to start March 1, 2023, and include personal services, operating expenses, and capital outlay costs as shown in Table 2.

- **IT modifications.** The bill requires two IT modifications. First, in FY 2022-23, costs in DORA will increase to create an interface between DORA's licensing system with the compact's data system for data sharing. It is estimated that this work will cost \$80,000. Second, in FY 2023-24, DORA will need an interface with the DPS's fingerprint background section. This upgrade is estimated to cost \$10,000. Finally, starting in FY 2024-25, DORA will have costs to maintain its data interfaces with the compact's system, estimated at \$3,000 per year.
- **Travel.** Starting in FY 2022-23, costs in DORA will increase to pay for the travel of Colorado's delegate on the compact. Costs are based on similar meetings held by the department and include costs for airfare, meals, lodging, incidentals, and mileage.
- **Dues.** The fiscal note assumes that DORA will have to pay annual dues to participate in the compact. Starting in FY 2023-24, this cost is estimated at \$15,000 per year.
- **Legal Services.** DORA will require 50 hours of legal services, provided by the Department of Law. This increase in legal services costs is accounted for through the annual budget process, with the Department of Law billing client agencies based on their historical use of legal services. No change in appropriations is required.

Department of Public Safety. This bill increases overall expenditures from the CBI Identification Unit Cash Fund in DPS by \$137,790 and 0.6 FTE in FY 2023-24, as described below.

- **Staffing costs.** In FY 2023-24, DPS will require staff to process the 3,600 fingerprint background applications that the fiscal note assumes the bill will generate from the bill. A Fingerprint Examiner II can process 8,250 requests per year, and a Data Specialist 16,500.
- **Federal Bureau of Investigation Pass-through.** The DPS passes \$11.25 of every application on to the federal government. With 3,600 applications, this equates to \$40,500 per year.
- **Other costs.** There are the following costs associated with each background check application: \$6.10 dedicated to equipment maintenance; \$1.55 for print digitization; \$0.88 to access the Colorado Crime Information Center for information pertinent to the background check; and \$0.58 printing and postage costs. In addition, there is a one-time training cost of \$1,000 for new staff.

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 shown in Table 3.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by \$263,700 for FY 2023-24. This estimate assumes the December 2021 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

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 2022-23, the bill requires an appropriation of \$104,538 and 0.3 FTE from the Professions and Occupations Cash Fund to the Department of Regulatory Agencies.

State and Local Government Contacts

Information Technology
Personnel

Judicial
Public Safety

Law
Regulatory Agencies