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# Fiscal Note

**Drafting Number:** LLS 23-0453 **Date:** February 20, 2023  
**Prime Sponsors:** Sen. Cutter; Exum **Bill Status:** Senate Local Government  
 Rep. Froelich; Velasco **Fiscal Analyst:** Josh Abram | 303-866-3561  
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**Bill Topic:** ESTABLISHMENT OF A WILDFIRE RESILIENCY CODE BOARD

**Summary of Fiscal Impact:**

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

The bill creates the Wildfire Resiliency Code Board in the Department of Public Safety to adopt statewide building codes and standards for preventing damages caused by wildland fires in urban areas. Local governments must adopt building codes that meet or exceed the state codes. The bill transfers money from the General Fund and increases state expenditures beginning in FY 2023-24.

**Appropriation Summary:** In addition to the statutory transfer, for FY 2023-24, the bill requires an appropriation of \$9,302 to the Wildfire Resiliency Code Board Cash Fund in the Department of Public Safety. The Wildfire Resiliency Code Board Cash Fund is continuously appropriated to the department. See State Appropriation section.

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

**Table 1**  
**State Fiscal Impacts Under SB 23-166**

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>		-	-
<b>Expenditures</b>	Cash Funds	\$259,302	\$338,282
	Centrally Appropriated <sup>2</sup>	\$36,358	\$36,358
	<b>Total Expenditures</b>	<b>\$295,660</b>	<b>\$374,640</b>
	<b>Total FTE</b>	<b>2.0 FTE</b>	<b>2.5 FTE</b>
<b>Transfers<sup>1</sup></b>	General Fund	(\$259,302)	(\$338,282)
	Cash Funds	\$259,302	\$338,282
	<b>Net Transfer</b>	<b>\$0</b>	<b>\$0</b>
<b>Other Budget Impacts</b>	General Fund Reserve	\$1,395	\$50,742

<sup>1</sup> The bill includes a statutory transfer in FY 2023-24 of \$250,000 and requires an additional General Fund appropriation of \$9,302 to the Wildfire Resiliency Code Board Cash Fund . All funding for FY 2024-25 is assumed to occur via a General Fund appropriation to this cash fund.

<sup>2</sup> Centrally appropriated costs are not included in the bill's transfer or appropriations.

## **Summary of Legislation**

The bill creates the 21-member Wildfire Resiliency Code Board (the board) in the Division of Fire Prevention and Control (DFPC) in the Department of Public Safety (DPS). The board's membership includes building code professionals, fire departments, builders, planners, hazard mitigation experts, local governments, and other stakeholders. The director or a designee of the DFPC, the Division of Homeland Security and Emergency Management, the Colorado Resiliency Office, and the State Forester serve as nonvoting ex officio members. Initial appointments must be made by September 30, 2023. Members serve without compensation but may be reimbursed for travel expenses.

By July 1, 2025, the board must adopt statewide building codes and standards to reduce the wildfire risk to people and property. The rules must define the wildland urban interface (WUI), identify which areas of the state lay within WUIs, and adopt minimum codes to protect life and property. The rules must consider the fiscal, environmental and safety impacts of adopting the codes, and must apply to permitting and inspections of new construction and substantial remodels. Rules must be created with collaboration from the Division of Insurance, the Department of Local Affairs, and the Energy Code Board.

Staff and administrative support for the board is provided by the DFPC. Staff must maintain a publically accessible website containing information about the board and adopted codes. The board must report annually to the Wildfire Matters Review Committee on its actions and recommendations, and other specified data concerning codes and local adoption.

The bill creates the Wildfire Resiliency Code Board Cash Fund. For FY 2023-24, the bill transfers \$250,000 from the General Fund to the fund. The fund may receive other appropriations from the General Assembly, and gifts, grants, and donations. The cash fund is continuously appropriated to the DPS.

Finally, this bill requires that a governing body with jurisdiction in a WUI identified by the board, adopt a local code that meets or exceeds the minimum statewide standards adopted by the board. The board may review a governing body's codes to determine compliance, and governing bodies must cooperate and provide requested information. If a governing body does not have rules and regulations for the enforcement of a code adopted by the board, the body may request inspections and enforcement from the DFPC, and the DFPC may charge the local governing body a reasonable fee for that support. Governing bodies may petition for a modification of local codes.

## **State Revenue**

The bill may increase state revenue from gifts, grants, or private donations to the Wildfire Resiliency Code Board Cash Fund. This revenue is exempt from TABOR. No amount or source of private funding has been identified.

## State Transfers

On July 1, 2023, the State Treasurer must transfer \$250,000 from the General Fund to the Wildfire Resiliency Cash Fund. Based on the estimated costs of the bill, it is assumed that an additional transfer to the fund of \$9,302, made via an appropriation from the General Fund, is also required in FY 2023-24.

Beginning in FY 2024-25, it is assumed that an appropriation of General Fund in the Long Bill will be used to transfer funding to the Wildfire Resiliency Cash Fund to pay for the direct costs of the program, as the bill does not include an ongoing transfer to the cash fund in statute. The source and method of funding the program is made at the discretion of the General Assembly, and the fiscal note will be updated if the actual funding method for the program differs from this assumption.

## State Expenditures

The bill requires the DFPC to administer and support the board, including the provision of office space, equipment, and administrative staff. Additionally, the division will create and support a publicly accessible website to house information about board actions and codes adopted. These requirements increase state expenditures in the Department of Public Safety by \$295,660 in FY 2023-24, and by \$374,640 in FY 2024-25, paid from the Wildfire Resiliency Code Board Cash Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2**  
**Expenditures Under SB 23-166**

	FY 2023-24	FY 2024-25
<b>Department of Public Safety</b>		
Personal Services	\$152,849	\$152,943
Operating Expenses	\$2,700	\$2,700
Capital Outlay Costs	\$13,340	-
Legal Services	-	\$95,166
Staff Tablets, Cell Phone	\$3,170	\$230
Vehicle Lease and Mileage	\$7,713	\$7,713
Travel & Expense Reimbursements	\$79,530	\$79,530
Centrally Appropriated Costs <sup>1</sup>	\$36,358	\$36,358
FTE – Personal Services	2.0 FTE	2.0 FTE
FTE – Legal Services	-	0.5 FTE
<b>Total Cost</b>	<b>\$295,660</b>	<b>\$374,640</b>
<b>Total FTE</b>	<b>2.0 FTE</b>	<b>2.5 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Staffing.** The division will add 1.0 FTE to serve as the board administrator, facilitating board meetings, researching codes and other areas of interest, presenting research and policy options to the board, and preparing official reports. A second 1.0 FTE will serve as the board's program assistant, to facilitate board scheduling and agendas, budget accounting, reimbursement of member travel expenses, and the administration and support of the public website. Standard operating and capital outlay costs for the new staff are also included.

**Legal services.** The new board will require legal services, provided by the Department of Law, beginning in FY 2024-25 to support rulemaking and to represent the board during any judicial review of appeal decisions. Legal services are estimated at 900 hours per year, for a total cost of about \$95,000. The Department of Law requires 0.5 FTE for this work.

**Equipment and vehicle lease.** Staff will have additional costs for mobile communication technology, including tablets and cell phones. The division will also need to lease a vehicle, which will include costs for the lease (\$6,333) and operating/mileage (\$1,358), which will be paid to the Fleet Management Program in the Department of Personal and Administration.

**Board member reimbursement.** This fiscal note assumes the board will meet a total of 11 times annually, and that all 21 members will be reimbursed at the same per diem and travel allowance afforded to members of the General Assembly, which combined equates to \$330 for each meeting. Travel expenses assume that meetings will occur primarily in the Denver metropolitan area, with some members choosing to participate remotely. If this estimate of travel expenses is insufficient, the DPS will seek additional funding for member reimbursement during the annual budget setting process.

**Other state agencies.** The director or a designee of the DFPC, the Division of Homeland Security and Emergency Management, the Colorado Resiliency Office, and the State Forester serve as nonvoting ex officio members of the new board. These departments will have an increase in workload to participate as ex officio members; however, no appropriations are required.

**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 2.

## **Other Budget Impacts**

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, which will decrease the amount of General Fund available for other purposes. The reserve requirement applies to the portions of the transfers under the bill that are made via an appropriation from the General Fund.

## **Local Government**

Beginning in FY 2024-25, for local governments with jurisdiction over a defined WUI and who have not already adopted codes of equal rigor as those adopted by the resiliency board, expenditures and workload will increase to update existing building codes, and to report the changes to the Wildfire Resiliency Code Board and the DFPC. Additional costs for staff time to develop and review the new codes, update existing local codes, train county staff, and engage in enforcement will be incurred as part of this update.

## **State Appropriations**

The bill makes a statutory transfer of \$250,000 to the continuously appropriated Wildfire Resiliency Code Board Cash Fund for use by the DPS. For FY 2023-24, this fiscal note estimates the direct costs of the bill at \$259,302. Therefore, for FY 2023-24, this bill requires a General Fund appropriation of \$9,302 to the Wildfire Resiliency Code Board Cash Fund in the Department of Public Safety.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State and Local Government Contacts**

Colorado Energy Office  
Local Affairs

Counties  
Municipalities

Law  
Public Safety