



Colorado
Legislative
Council
Staff

SB17-132

REVISED
FISCAL NOTE

(replaces fiscal note dated February 8, 2017)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0190
Prime Sponsor(s): Sen. Gardner
Rep. Wist

Date: April 18, 2017
Bill Status: House SVMA
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: REVISED UNIFORM LAW ON NOTARIAL ACTS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue Cash Funds		Potential increase.
State Expenditures Cash Funds Centrally Appropriated Costs	<u>\$16,686</u> 13,032 3,654	<u>at least \$13,415</u> 10,788 2,627
TABOR Impact		Potential increase.
FTE Position Change	0.3 FTE	0.2 FTE

Appropriation Required: \$13,032 - Secretary of State (FY 2017-18).

Future Year Impacts: Ongoing expenditure and potential revenue increase.

Summary of Legislation

The **reengrossed** bill, recommended by the Colorado Commission on Uniform State Laws, repeals current state laws regulating notaries public, and enacts the National Uniform Law Commission's (ULC) Revised Uniform Law on Notarial Acts, as amended by ULC in 2016. The bill modernizes notary responsibilities and electronic recording processes; seeks to promote uniformity among state laws regarding notarial acts; allows the recognition of notarial acts from other jurisdictions; makes minor changes to the penalties related to notary misconduct; and allows a notary to leave his or her journal with their employer instead of retaining it or sending it to state archives. The bill also postpones the sunset review of notaries law from July 1, 2018, to September 1, 2023, and relocates the notaries statutes to the Secretary of State's (SOS) article.

The bill creates a working group, appointed by the SOS, to study and make recommendations regarding electronic remote notarization over the course of at least four meetings by December 1, 2017. The SOS is required to promulgate rules regarding electronic remote notarization by October 1, 2018, after which notaries may perform a notarial act by electronic remote notarization for a fee not to exceed \$25.

Background

Colorado Commission on Uniform State Laws. The Colorado Commission on Uniform State Laws is charged with working with the ULC to promote uniformity in state laws where uniformity may be deemed desirable and practicable. This is achieved by developing proposed uniform legislation through the ULC that can be adopted by the various state legislatures. Colorado's commissioners are required to be attorneys admitted to practice law in Colorado. Members include six attorneys appointed or reappointed by joint resolution of the General Assembly; any Colorado citizen who is elected as a life member of the ULC (after twenty years of membership); and the director of the Office of Legislative Legal Services, or the director's designee. The Office of Legislative Legal Services provides assistance to the legislative members of the Colorado Commission in their efforts to enact legislation regarding uniform acts.

Revised Uniform Law on Notarial Acts in other states. As of writing, six states have adopted the Revised Uniform Law on Notarial Acts, including Iowa, Montana, North Dakota, Oregon, Pennsylvania, and West Virginia; while four states have legislation pending, including Colorado, Georgia, New Jersey, and Washington.

Notaries public in Colorado. A notary public is an individual authorized to officially witness signatures on documents, administer oaths, and certify copies of original documents — essentially serving as an impartial, third-party witness. In Colorado, the Secretary of State (SOS) commissions notaries within its Business and Licensing division. In addition to processing, issuing, and renewing notary commissions through its online filing system, the SOS investigates complaints, conducts trainings and online exams, reviews training vendor applications, and answers inquiries. The annual application fee for a notary is \$10, deposited into the Department of State Cash Fund. Under current law, the maximum fee a notary can charge per paper notarization is \$5, and per electronic notarization is \$10.

Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. Senate Bill 17-132 repeals and reenacts the notaries public laws, and thus three criminal penalties and one civil penalty that exist under current law — official misconduct by a notary, a Class 2 misdemeanor; willful impersonation, a Class 2 misdemeanor; wrongful possession of a journal or seal, a Class 3 misdemeanor; and advertising for the unauthorized practice of law or immigration consulting, a deceptive trade practice — are reenacted under a new part of statute. In the past three years, there were two convictions of official misconduct by two Caucasians, one male and one female, and one conviction of willful impersonation by a Caucasian female. As a result, the fiscal note assumes any increase in cases will be negligible and there will be no tangible impact to the court system.

State Revenue

Depending on the remote notarization rules adopted by the SOS, fee revenue to the SOS Cash Fund may increase beginning in FY 2018-19. Examples of potential new fees include application fees, vendor fees, or separate registration fees for notaries using remote technology.

TABOR Impact

To the extent new fees are adopted, the bill will increase state cash fund revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19. TABOR refunds are paid out of the General Fund. 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 Expenditures

The bill will increase expenditures by \$16,686 in FY 2017-18 and 0.3 FTE and \$13,415 and 0.2 FTE in FY 2018-19. Expenditures are outlined in Table 1 and explained below.

Table 1. Expenditures Under SB17-132		
Cost Components	FY 2017-18	FY 2018-19
Personal Services	\$13,032	\$10,788
FTE	0.3 FTE	0.2 FTE
Centrally Appropriated Costs*	3,654	2,627
TOTAL	\$16,686	\$13,415

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

Secretary of State. In FY 2017-18, the SOS will require a temporary policy advisor to coordinate the working group equivalent to 0.3 FTE. The position will provide recruiting assistance, research, meeting preparation, reporting, and other assistance. Beginning in FY 2018-19, the allowance of remote notarization is anticipated to require an additional 0.4 FTE of a compliance investigator, prorated to 0.2 FTE in FY 2018-19 to account for mid-year rule adoption. This cost is based on the assumption that the SOS will require an additional 15 hours per complaint per year, using the average 50 complaints per year it receives, for a total of 750 hours per year, or 0.4 FTE.

Workload in the SOS will increase to participate in the working group and implement the bill, including rulemaking, form and website updates, exam revisions, and staff training. This workload increase is expected to be accomplished within existing appropriations.

The fiscal note assumes that additional resources may be required depending on the recommendations of the working group and expects that these will be requested during the annual budget process.

Judicial Department. Because the bill makes no substantive changes to the penalties related notary misconduct, no workload increase is anticipated in the Judicial Department.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under SB17-132		
Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$2,486	\$1,660
Supplemental Employee Retirement Payments	1,168	967
TOTAL	\$3,654	\$2,627

Local Government Impact

Workload for certain county clerk and recorder staff will increase to participate in the working group in FY 2017-18.

Effective Date

The section of the bill related to the working group takes effect August 9, 2017, and the remainder of the act takes effect July 1, 2018, if no referendum petition is filed. The bill applies to conduct occurring on or after July 1, 2018.

State Appropriations

In FY 2017-18, the bill requires an appropriation of \$13,032 to the Secretary of State's Office from the Department of State Cash Fund and an allocation of 0.3 FTE.

State and Local Government Contacts

Corrections	Counties	County Assessors
County Clerks	District Attorneys	Information Technology
Judicial	Labor	Law
Local Affairs	Municipalities	Personnel
Property Tax Division	Public Defender	Public Trustees
Regulatory Agencies	Revenue	Secretary of State
Treasury		

Research Note Available

An LCS Research Note for SB17-132 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.