



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

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<b>Drafting Number:</b>	LLS 23-0555	<b>Date:</b>	February 8, 2023
<b>Prime Sponsors:</b>	Rep. Evans Sen. Pelton B.	<b>Bill Status:</b>	House State Affairs
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<b>Bill Topic:</b>	<b>TEMPORARY PROHIBITION ON RULE-MAKING AFTER RULE ADOPTED</b>
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<b>Summary of Fiscal Impact:</b>	<input checked="" 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 establishes restrictions on rule-making by state agencies. It increases state expenditures in FY 2023-24, then decreases state expenditures on an ongoing basis.

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<b>Appropriation Summary:</b>	No appropriation is required.
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<b>Fiscal Note Status:</b>	The fiscal note reflects the introduced bill.
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## Summary of Legislation

Beginning September 1, 2023, when a state agency adopts a rule, the bill prohibits state agencies from amending or adopting a new rule on the same subject for three years. The bill allows exceptions if:

- the new rule is required to comply with state statute or federal law;
- the agency determines that the new rule is necessary for public health or safety;
- the new rule is a temporary or emergency rule; or
- the agency grants a petition to a member of the community regulated by the existing rule.

## State Revenue

The bill impacts cash fund revenue beginning in FY 2024-25. Many state agencies have authority to set certain fees by rule, including licensure fees, registration fees, and billing fees. Fees are often adjusted every one or two years to reflect changes in the size of the regulated population, changes in expenditures, or in order to maintain a certain cash fund balance. The bill's restriction on rulemaking may impact an agency's ability to adjust fee levels in a timely matter, and may result in higher or lower revenue relative to current law depending on how agencies adjust to the longer period between fee setting and how costs covered by the fee change over time. Specific impacts cannot be estimated at this time. Most cash fund revenue is subject to TABOR, except for fees paid to state enterprises.

## State Expenditures

The bill impacts state workload related to reduced rulemaking and petition administration; it may decrease state expenditures overall beginning in FY 2024-25. The fiscal note assumes that newly adopted rules would not be updated for at least one year, and no change in appropriation is required for FY 2023-24.

**Rulemaking.** The bill has an indeterminate effect on state workload for rulemaking. In general, the restriction on rulemaking is expected to decrease state workload in state agencies that would be updating rules and for legal services to support that rulemaking. This decrease may be offset to the extent that the bill's exceptions allow some rules to be updated within the three-year timeframe.

Besides staff time in preparing rules, legal services, provided by the Department of Law at a rate of \$105.74 per hour, are often used by agencies during rule making. For informational purposes, the Department of Law has annually provided approximately 12,500 hours of legal services for rulemaking in recent years. A 10 percent reduction in rulemaking hours would reduce state expenditures by \$132,175 per year across all state agencies. Any such reduction in expenditures for individual agencies will be addressed through the annual budget process.

**Petitions.** The bill allows members of regulated communities to petition agencies to update rules within the three-year timeframe. To the extent that an agency receives petitions, its workload will increase. This workload is expected to be minimal.

## Effective Date

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

## State and Local Government Contacts

All State Agencies