



Legislative
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HB 18-1291

**FINAL
FISCAL NOTE**

Drafting Number: LLS 18-0394
Prime Sponsors: Rep. Winter; Thurlow
 Sen. Sonnenberg
Date: August 15, 2018
Bill Status: Signed into Law
Fiscal Analyst: Josh Abram | 303-866-3561
 Josh.Abram@state.co.us

Bill Topic: SUNSET CONSERVATION EASEMENT OVERSIGHT COMMISSION

Summary of Fiscal Impact:

- State Revenue (*continuation*)
- State Expenditure (*continuation*)
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

Sunset bill. HB 18-1291 relocates the Conservation Easement Oversight Commission and the Certification of Conservation Easement to the newly crated Division of Conservation in the Department of Regulatory Agencies, and continues both program's activities until July 1, 2019. State fiscal impacts include the transfer and continuation of current program expenditures and revenue in a new division. The bill also creates additional reporting workload for state agencies.

Appropriation Summary: No appropriation is required.

Fiscal Note This final fiscal note reflects the enacted bill.

**Table 1
State Fiscal Impacts Under HB 18-1291***

New Impacts		FY 2018-19	FY 2019-20
Revenue	Cash Funds	-	-
Expenditures	Cash Funds	-	-
Transfers	Cash Funds	-	-
	Cash Funds	-	-
TABOR			
Continuing Program Impacts		FY 2018-19	FY 2019-20
Revenue	Cash Funds	-	\$500,000
Expenditures	Cash Funds	-	\$500,000
	FTE	-	3.75 FTE

* Table 1 shows the new impacts resulting from changes to the program under the bill, and the continuing impacts from extending the program through July 1, 2019. Because the bill continues an existing program, and since the changes in the bill do not require new appropriations, there are no new impacts displayed in Table 1. The continuing program impacts will end if the bill is allowed to repeal July 1, 2019.

Summary of Legislation

The bill relocates both the oversight commission and the certification program from the Division of Real Estate in the Department of Regulatory Agencies (DORA) to a newly created Division of Conservation. The new division is transferred within the DORA as a Type 2 Agency, permitting the new division to exercise its powers, duties, and functions independent from the DORA. The newly created oversight commission and certification program continues the duties of the existing programs, and are repealed July 1, 2019. Additionally, the bill:

- transfers program funding between cash funds in the DORA;
- modifies the composition of the oversight commission;
- requires a publically available online list of all organizations that have applied for certification, including the current status of approval; and
- authorizes the new division to share publicly available information regarding conservation easements with a third-party vendor for the purpose of developing and maintaining a registry of conservation easements and a corresponding map.

The bill implements some of the recommendations of the DORA in its SUNSET review of the commission and certification program, including:

- a process for expedited or automatic certification of an entity that is currently accredited by national land conservation organizations broadly accepted by the conservation industry;
- a streamlined and lower-cost process for conservation easement holders that do not intend to accept new donations of conservation easements for which tax credits will be claimed, and that focuses on the holder's stewardship capabilities;
- ensuring that program fees are adequate to pay for administrative costs but not so high as to act as a disincentive to the creation of conservation easements in the state; and
- the adoption of best practices, processes, and procedures used by other entities that regularly review conservation easement transactions.

Finally, the bill requires that the newly created Division of Conservation convene a working group with representatives of the DORA, the Department of Revenue, and the Department of Law, to develop recommendations for:

- an alternative method to the current land appraisal process to establish a baseline property value, which would then be subject to different levels of restriction for use as a conservation easement;
- a process to petition a court to extinguish a conservation easement;
- a process to provide retroactive tax credits to taxpayers who claimed tax credits between 2000 and 2008 whose tax credits were denied in whole or in part; and
- a written form to warn landowners of the legal consequences of terminating a conservation easement.

The work group is required to submit a report and recommendations to the General Assembly by December 2018.

State Transfers

The bill transfers the cash balance for the programs from the Division of Real Estate Cash Fund to the newly created Division of Conservation Cash Fund within the DORA. A preliminary estimate of this transfer is \$500,000 in FY 2018-19; however, the actual amount has not been reported as of the writing of this fiscal note.

Continuing Program Impacts

Based on the 2017 sunset review, DORA had no direct revenue or expenditures to administer the Conservation Easement Oversight Commission but did receive and spend approximately \$500,000 in fee revenue and employ 3.75 FTE annually to support the program to certify conservation easement holders. This fiscal note assumes that the new division will have revenue and expenditures roughly equivalent to the existing program in the Division of Real Estate. These resources also support the work of the oversight commission.

Effective Date

The bill was signed into law by the Governor and took effect on May 29, 2018.

State and Local Government Contacts

Agriculture Regulatory Agencies	Law Revenue	Natural Resources
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