



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

**FINAL
FISCAL NOTE**

Drafting Number: LLS 18-1186 **Date:** August 8, 2018
Prime Sponsors: Sen. Grantham; Fenberg **Bill Status:** Adopted
 Rep. Duran; Neville P. **Fiscal Analyst:** Ryan Long | 303-866-2066
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Bill Topic: LEGISLATIVE REDISTRICTING

Summary of Fiscal Impact:

| | |
|--|--|
| <input checked="" type="checkbox"/> State Revenue (<i>minimal</i>) | <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 |

This resolution replaces the current Reapportionment Commission with the Independent Legislative Redistricting Commission. If approved by voters, it will increase state revenue and expenditures beginning in FY 2020-21 and FY 2021-22.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the adopted resolution.

**Table 1
State Fiscal Impacts Under SCR 18-005**

| | FY 2018-19 | FY 2020-21 | FY 2021-22 |
|------------------------|--------------|------------------|------------------|
| Revenue | | - | - |
| Expenditures | | | |
| General Fund | | \$192,470 | \$137,006 |
| Cash Funds | | \$88,822 | - |
| Centrally Appropriated | | \$5,356 | \$24,779 |
| Total | | \$286,648 | \$161,785 |
| Total FTE | | 0.4 FTE | 1.2 FTE |
| Transfers | | - | - |
| TABOR Refund | General Fund | - | - |

Summary of Legislation

Under current law, the Colorado Reapportionment Commission must create and approve a legislative district plan for the Colorado House of Representatives and Colorado State Senate. This resolution refers a measure to the voters to amend the Colorado Constitution to replace the current Reapportionment Commission with the Independent Legislative Redistricting Commission (commission).

Commission composition. The commission consists of 12 members: 4 members from the state's largest party; 4 members from the state's second largest party; and 4 members who are unaffiliated with a political party.

Application process. To qualify as a commissioner, applicants must be registered to vote and have voted in the previous two elections; must have been either unaffiliated with any party or affiliated with the same party for the last 5 consecutive years; and must meet certain other eligibility criteria outlined in the resolution. By August 10 in the year the census is conducted, after holding one or more public hearings, nonpartisan staff of the Colorado Legislative Council must prepare an application to allow the appointing authorities for the commission to evaluate each applicant's experience. By November 10 of the year prior to redistricting, all applicants must submit applications to the non-partisan staff.

Commissioner selection. By January 5 of the redistricting year, the Chief Justice of the Colorado Supreme Court must designate a three-member panel to review the submitted applications. This panel consists of the most recent retired justices or judges, and each appointee must have a different political affiliation. All decisions made by this panel must be unanimous.

Nonpartisan staff, with the assistance of the Secretary of State, must determine if each applicant is qualified and make such findings public by January 11. By January 25, the panel must hold a public meeting and randomly select up to 300 applicants for the first largest party, 300 applicants for the second largest party, and 450 unaffiliated applicants. From these applicants, the panel must chose 150 applicants, or 50 from each group, and randomly select 6 commissioners from these applicants. No more than two applicants can be from the same congressional district.

By February 16, the Senate Majority and Minority Leader and House of Representatives Majority and Minority leader must each select a pool of 10 applicants, and the panel of judges and justices must select 4 applicants from the pool chosen by legislative leadership, as well as 2 additional unaffiliated applicants.

State plan review and approval. The Governor must convene the commission no later than March 30 of the redistricting year. Staff for the commission are appointed from the offices of the Colorado Legislative Council and Legislative Legal Services. The commission must adopt rules governing the hearing process and review of submitted maps, maintenance of commission records, process for removing commissioners and for recommending changes to submitted maps, and must adopt a statewide meeting and hearing schedule.

Public involvement. All Colorado residents may present proposed redistricting maps and written comments for the commission's consideration. The commission must hold at least three public hearings in each congressional district before the approval of a redistricting map. At least 10 commissioners must attend each meeting either in person or electronically. These hearings must be broadcast online. The commission must maintain a website through which Colorado residents may submit maps or written comments. All written comments pertaining to redistricting must be published on its website.

Lobbying requirements. Any person who receives compensation for advocating to the commission, one or more commissioners, or staff, are lobbyists and must disclose certain information to the Secretary of State within 72-hours of lobbying or receiving compensation for lobbying. The Secretary of State must publish the names and compensation of such lobbyists within 24-hours of receiving this information. Complaints against a lobbyist for failure to fully or accurately report such activity may be filed with the Department of State and referred to an Administrative Law Judge (ALJ). The decision of an ALJ may be appealed to the Court of Appeals.

Approval of plans. Within 30 to 45 days after the commission convenes, commission staff must create a preliminary plan for the Senate and the House of Representatives. Any member of the public may submit written comments regarding the creation of the preliminary plans. The commission must complete public hearings on the preliminary plans by July 21 of the redistricting year. After the hearings are held, commission staff must create at least three Senate plans and three House of Representatives plans. The commission may adopt a final Senate or House of Representatives plan at any time after the presentation of the first staff plans.

The final Senate and House of Representatives plans must be submitted to the Colorado Supreme Court for review by September 15 of the redistricting year. If the commission does not adopt a final plan for both the Senate and the House by September 15, the commission staff must submit the unamended third staff plan. By November 15 of the redistricting year, the Colorado Supreme Court must approve or return the Senate and House plans. If the court returns a plan to the commission, the commission will have 12 days to hold a hearing and return a new plan. If the commission fails to adopt a plan, the commission's staff will have an additional three days to prepare a plan. The Supreme Court must approve plans and file them with the Secretary of State no later than December 29 of the redistricting year.

State Revenue

Beginning in FY 2018-19, this bill will minimally increase cash fund revenue to the Department of State in the Department of State cash fund for fines collected from lobbyists who fail to disclose required information. It is assumed that there will be high compliance with these requirements, and the actual issuance of fees will be low.

TABOR Refund

This bill increases state revenue from fines beginning in FY 2020-21. Depending on the state's future TABOR situation, the bill may increase the amount of money required to be refunded under TABOR for the years in which it impacts revenue. Because state revenue subject to TABOR has not been estimated for years beyond FY 2019-20, these impacts are indeterminate.

State Expenditures

Based on preliminary costs for state legislative redistricting under current law, this bill is projected to increase Legislative Department General Fund expenditures by \$194,619 and 0.2 FTE in FY 2020-21 and \$161,785 and 1.2 FTE in FY 2021-22. Department of State cash fund expenditures are expected to increase \$92,029 in FY 2021-22 only. These costs are summarized in Table 1 and discussed below.

**Table 2
Expenditures Under SCR 18-005**

| Cost Components | FY 2018-19 | FY 2020-21 | FY 2021-22 |
|---|-------------------|-------------------|-------------------|
| Legislative Department | | | |
| Personal Services | - | \$11,879 | \$101,181 |
| Operating Expenses and Capital Outlay Costs | - | \$3,664 | \$475 |
| Computer Equipment, Software, and Website | - | \$167,200 | \$6,170 |
| Travel and Per Diem | - | \$9,727 | \$29,180 |
| Centrally Appropriated Costs* | - | \$2,149 | \$24,779 |
| FTE – Personal Services | - | 0.2 FTE | 1.2 FTE |
| Dept (Subtotal) | - | \$194,619 | \$161,785 |
| Department of State | - | | |
| Personal Services | - | \$17,142 | - |
| Operating Expenses and Capital Outlay Costs | - | - | - |
| Computer Programming | - | \$71,680 | - |
| Centrally Appropriated Costs* | - | \$3,207 | - |
| FTE – Personal Services | - | 0.2 FTE | - |
| Dept (Subtotal) | - | \$92,029 | - |
| Total | - | \$286,648 | \$161,785 |
| Total FTE | - | 0.4 FTE | 1.2 FTE |

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

Personal services and operating costs. Under the current legislative redistricting process, legislative district plans are drawn by the Colorado Reapportionment Commission in the legislative interim (between legislative sessions). Staff support for this commission is provided by the nonpartisan legislative staff. The current process is projected to last seven months and require 1.3 FTE in FY 2020-21 and 3.3 FTE in FY 2021-22. Under this resolution, the new Independent Legislative Redistricting Commission will require 1.5 FTE in FY 2020-21 and 4.5 FTE in FY 2021-22. These increased costs are due largely to the requirement for a website through which members of the public may submit maps and comments, the requirement to post comments on the website, and the requirement to broadcast all public hearings live through the commission's website.

The Department of State requires 0.2 FTE in FY 2020-21 only, for approximately 310 hours of staff time to promulgate rules regarding congressional redistricting lobbying, create training materials and conduct training on lobbyist congressional redistricting registration and reporting requirements. Staff will also assist with updating the online lobbying system and process any complaints received against lobbyists. Workload will also increase in FY 2021-22 to process complaints; however, this workload can be accomplished within existing appropriations.

Computer equipment and software. State legislative redistricting requires computers that use GIS and mapping software, as well as data and printing services. This measure also specifies certain requirements for the commission's website, which include allowing for the submission of public maps and comments and the broadcasting of meetings, that exceed the requirements of current law. Computer equipment and website development costs are expected to increase \$167,200 in FY 2020-21 and \$6,170 in FY 2021-22 over the requirements of current law.

In FY 2020-21, the IT Services Division in the Department of State will require 640 hours of computer programming at \$112 per hour, or \$71,680, to make modifications to the existing lobbyist registration system.

Travel and per diem. Under current law, several meetings and public hearings are held as a part of the redistricting process to seek public input on new district plans. These meetings are held throughout the state and funds are needed to pay for travel expense reimbursement and per diem for staff and commission members. Under this resolution, costs will increase for additional staff and the twelfth commissioner to travel and to hold additional public hearings.

Administrative Law Judges/Court of Appeals. To the extent that complaints against a lobbyist for failure to fully or accurately report such activity, workload for the Office of Administrative Courts will increase. Workload for the Court of Appeals will also increase to the extent that an Administrative Law Judge decision is appealed. It is assumed this workload can be accomplished within each agency's existing appropriations.

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 estimated to be \$5,356 in FY 2020-21 and \$24,779 in FY 2021-22

Election expenditure impact — existing appropriations. This bill includes a referred measure that will appear before voters at the November 2018 general election. While no additional appropriation is required in this resolution, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas. First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office, estimated at \$3.2 million in FY 2018-19. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost \$2.1 million in FY 2018-19. Publication costs will increase by approximately \$115,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

Effective Date

The bill takes effect after the date of the official declaration of the vote by proclamation of the Governor, not later than 30 days after the votes have been canvassed.

State and Local Government Contacts

Judicial
Local Affairs

Law
Legal Services

Legislative Council
Secretary of State