



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 19-0161
Prime Sponsors: Sen. Gardner

Date: January 25, 2019
Bill Status: Senate SVMA
Fiscal Analyst: Katie Ruedebusch | 303-866-3001
Katie.Ruedebusch@state.co.us

Bill Topic: REVISED UNIFORM LAW REMOTE NOTARIZATION

Summary of Fiscal Impact:

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

The bill authorizes a notary public to perform a notarial act for remotely located individuals. It increases state cash fund revenue and expenditures on an ongoing basis beginning in FY 2019-20.

Appropriation Summary: In FY 2019-20, the bill requires a cash fund appropriation of \$103,470 to the Department of State.

Fiscal Note Status: This fiscal note reflects the introduced bill as requested by Colorado Commission on Uniform State Laws.

Table 1
State Fiscal Impacts Under SB 19-084

| | | FY 2019-20 | FY 2020-21 |
|---------------------|------------------------|------------------|-----------------|
| Revenue | Cash Funds | \$29,040 | \$29,040 |
| Expenditures | Cash Funds | \$103,470 | \$22,640 |
| | Centrally Appropriated | \$12,525 | \$5,789 |
| | Total | \$115,995 | \$28,429 |
| | Total FTE | 0.9 FTE | 0.4 FTE |
| Transfers | | - | - |
| TABOR Refund | General Fund | \$29,040 | \$29,040 |

Summary of Legislation

The bill allows a notary public to perform notarizations for remotely located individuals. Remotely located individuals must appear before the notary using a technology that allows communication with both sight and sound. The notary must retain a recording of the event for at least 10 years. The bill also establishes standards for satisfactory evidence of the identity of the remotely located individual. In addition, notaries must notify the Secretary of State when notarizing for remote individuals and identify the technology they are planning to use. The Secretary of State, by allowing the use of the communication technology, will act as the registered agent for any civil actions related to the notarial act.

The Secretary of State may adopt rules establishing the standards, requirements, and procedures related to notarial acts for remotely located individuals. When adopting rules, the Secretary of State must consider national standards, the rules of other jurisdictions, and stakeholder opinions.

A county clerk and recorder may accept a tangible copy of an electronic record containing a notarial certificate if it is an accurate copy of the electronic record.

Background

Colorado adopted the Uniform Law Commission's Revised Uniform Law on Notarial Acts in 2017. The Uniform Law Commission approved amendments to this act regarding remotely located individuals in 2018.

Colorado Commission on Uniform State Laws. The Colorado Commission on Uniform State Laws is charged with working with the national Uniform Law Commission (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.

Assumptions

This fiscal note assumes that the Secretary of State will register six communication technology providers for remote communication technology. The Secretary of State will also process and investigate 27 remote notary complaints per year.

State Revenue

Beginning in FY 2019-20, the bill increases state cash fund revenue in the Department of State by \$29,040.

Fee impact on Department of State. Colorado law requires legislative service agency review of measures which create any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by Department of State based on cash fund balance, estimated program costs, and the estimated number of registrations subject to the fee. Table 2 below identifies the fee impact of this bill. The fee is intended to cover ongoing administrative costs of the program.

**Table 2
Fee Impact on Communication Technology Providers**

| Fiscal Year | Type of Fee | Proposed Fee | Number Affected | Total Fee Impact |
|-------------------------|--|---------------------|------------------------|-------------------------|
| FY 2019-20 | Communication Technology Provider Fee | \$4,840 | 6 | \$29,040 |
| FY 2019-20 Total | | | | \$29,040 |
| FY 2020-21 | Communication Technology Provider Fee | \$4,840 | 6 | \$29,040 |
| FY 2020-21 Total | | | | \$29,040 |

State Expenditures

The bill increases cash fund expenditures by \$115,995 and 0.9 FTE in FY 2019-20, and \$28,429 and 0.4 FTE in FY 2020-21 from the Department of State Cash Fund.

**Table 3
Expenditures Under SB 19-084**

| | FY 2019-20 | FY 2020-21 |
|---|-------------------|-------------------|
| Department of State | | |
| Personal Services | \$45,245 | \$22,549 |
| Operating Expenses and Capital Outlay Costs | \$5,558 | \$91 |
| Computer Programming | \$52,576 | - |
| Centrally Appropriated Costs* | \$12,525 | \$5,789 |
| FTE – Personal Services | 0.9 FTE | 0.4 FTE |
| Total Cost | \$115,995 | \$28,429 |
| Total FTE | 0.9 FTE | 0.4 FTE |

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

Department of State The Department of State will require 0.9 FTE to implement this program in FY 2019-20 and 0.4 FTE in FY 2020-21. The additional FTE will process and investigate notary complaints; engage in rulemaking; certify and track communication technology providers; create a system for tracking remote notaries; mail documents; and update forms, manuals, and the department's website.

In addition, in FY 2019-20, one-time computer programming costs of \$52,576 are required to update the existing notary web application system. Programming costs are calculated at 496 hours at a rate of \$106 per hour. Cost estimates are based on a similar system implementation for durable medical equipment.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds by \$29,040 in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

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 \$12,525 in FY 2019-20 and \$5,789 in FY 2020-21.

Local Government

Workload may increase for county clerks to provide training to staff regarding the acceptance of electronic records.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2019-20, the bill requires an appropriation of \$103,470 from the Department of State Cash Fund to the Department of State

State and Local Government Contacts

County Clerks Law Secretary of State