



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number: LLS 22-0557
Prime Sponsors: Rep. Hanks

Date: August 16, 2022
Bill Status: Postponed Indefinitely
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Bill Topic: ELECTION SYSTEMS

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill would have made numerous changes to the conduct of elections, including requiring in-person voting at a precinct polling place on election day and limiting the use of mail ballots to certain absentee voting situations. The bill would have increased state and local government expenditures beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill would have required an appropriation of \$770,400 to the Department of State.

Fiscal Note Status: The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 22-1204

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Funds	up to \$770,400	up to \$1,000,000
Expenditures	Cash Funds	\$770,400	\$1,000,000
Transfers		-	-
Other Budget Impacts	TABOR Refund	up to \$770,400	up to \$1,000,000

Summary of Legislation

This bill makes numerous changes to state laws governing elections. Notably, the bill eliminates voting by mail, except for absentee voters meeting certain requirements, and requires that voting take place in person on election day. In connection with these changes, the bill:

- requires voters to present a valid, state-issued identification in order to receive a ballot;
- requires voters to submit a request for absentee voting and only allows a voter to receive a mail ballot for absentee voting if they will be out of the state on election day, are hospitalized or in a nursing home, have a visual impairment, or are a uniformed overseas voter;
- requires the use of an anti-fraud ballot paper;
- specifies procedures for preparing sample ballots and sharing them in advance of the election with candidates and political parties;
- requires counties to operate a central location on election day to provide replacement ballots to absentee voters;
- requires county clerks to establish precincts and polling places;
- specifies procedures and requirements for the approval, testing, certification, and use of electronic voting systems;
- requires ballots to be counted by hand and for election results to be provided within 24 hours of polls closing;
- requires that the state be withdrawn from participation in the Electronic Registration Information Center; and
- creates class 4 felony offenses for certain actions related to counterfeiting election returns and ballot tabulations, and a class 2 misdemeanor for various unlawful acts related to voting.

Comparable Crime Analysis

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 creates a new factual basis for an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Unlawful acts related to voting, and counterfeiting election returns and ballot tabulations. This bill creates class 2 misdemeanor offenses of certain unlawful acts related to voting, and adds two new class 4 felony offenses of counterfeiting election returns and counterfeiting ballot tabulations. To form an estimate on the prevalence of this new crime, the fiscal note analyzed all existing election offenses as comparable crimes. From FY 2018-19 to FY 2020-21, 11 individuals have been convicted and sentenced for election-related offenses, most of which concerned illegally casting a ballot. Of the individuals convicted, 5 were male, and 6 were female. Demographically, 10 were White, and 1 was Black/African American. The fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offenses under the bill.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

The bill increases state cash fund revenue by up to \$770,400 in FY 2022-23 and up to \$1,000,000 in FY 2023-24. It may also increase revenue from criminal fines and fees. These impacts are described below.

Fee impact on businesses and professions. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Under current law, the Department of State (DOS) is authorized to adjust fees so that the revenue generated approximates its direct and indirect costs. The DOS is primarily funded through business filing fees. To cover the costs described in the State Expenditures section below, fees will likely need to be raised to cover all or some of the costs of this bill. The fees affected and the actual amount of fee charges will be set administratively by the DOS based on cash fund balance, total program costs, and the estimated number of professional activities subject to fees. This revenue is subject to TABOR.

Criminal fines and penalties. Based on the assumptions above, this analysis estimates there will be a minimal increase in state revenue from fines. Criminal fines and court fee revenue is subject to TABOR.

State Expenditures

The bill increases expenditures in the Department of State (DOS) by \$770,400 in FY 2022-23, and by \$1,000,000 in FY 2023-24, paid from the DOS Cash Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 22-1204

Cost Components	FY 2022-23	FY 2023-24
Department of State		
Computer Programming	\$230,400	-
Outreach and Education Campaign	\$540,000	\$1,000,000
Total	\$770,400	\$1,000,000

Computer programming. The DOS must make changes to the Statewide Voter Registration System (SCORE) to facilitate precinct-based voting, and excuse-only voting for absentee voters, which requires 1,920 hours of contract staff time at a rate of \$120 per hour in FY 2022-23 only.

Voter education campaign. The DOS will engage in a public voter education campaign from FY 2022-23 to FY 2024-25 to inform voters about election changes. Based on expenses in the DOS to conduct voter education following the changes to primary elections in 2018 and 2020, the DOS will require about \$2.0 million spread across three fiscal years.

Withdrawal from Electronic Registration Information Center. The Electronic Registration Information Center is a data sharing agreement that assists member states with voter rolls and access to voter registration information. Withdrawal from the agreement will increase workload for the DOS

to find alternate voter information data lists, and may result in other costs for subscription fees for replacement databases.

Legal services. The DOS may require additional legal services, provided by the Department of Law, for rulemaking and other matters under the bill. It is assumed that any legal services required will be less than 100 hours per year and adjusted as necessary through the annual budget process.

Judicial Department. Workload in the Judicial Department will increase slightly to consider new election offenses. Any workload increase, including in the trial courts and the Division of Probation, are expected to be minimal and no change in appropriations is required.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Local Government

The bill will change how county clerks conduct elections and increase costs paid at the local level for administering elections. Costs are incurred for increased use of precinct polling places, workers for hand-counting ballots, and other process changes. Costs will vary by county and are described below.

Increase in number of polling places. The bill will increase the number of precinct polling places required for in-person voting, as well as necessitate the purchase of allowable electronic voting equipment. Costs will be incurred to establish precinct polling places for primarily in-person voting on election day, rather than a more limited number of voter service centers for the weeks preceding election day under the current mail ballot model. By county size, costs are estimated to be between:

- \$265,000 and \$425,000 for a large county;
- \$145,692 and \$169,000 for a medium county; and
- \$3,000 and \$28,000 for a small county.

Hand counting ballots. The bill requires that ballots be counted by hand within 24 hours. Mesa County recently conducted a hand count over three days, and estimated the cost at about \$1.36 per ballot to pay for election judges and rental spaces. Completing a hand count in 24 hours, with the assumption that larger counties will generally have more and longer ballots compared to the recent Mesa County election, is estimated to increase the average per-ballot cost to \$4.12, for a total of approximately \$12.3 million statewide. Costs may vary from this estimate depending on ballot length, voter turnout, and other factors.

Anti-fraud paper. The bill requires use of paper with certain fraud countermeasures. While an exact cost is not known, if the cost of each ballot increased by 20 cents to include the anti-fraud features, ballot costs statewide increase by approximately \$600,000. If the anti-fraud paper is not compatible

with current printers, counties will need to purchase new compatible equipment. One currently available ballot printer costs \$714. There are 1,718 of these printers statewide, and purchasing replacement printers' increases costs by a total of about \$1.27 million, assuming the new printers cost a similar amount. These costs may be offset to the extent that the shift to precinct-based polling places and restrictions on replacement ballots reduce the need for on-demand ballot printers.

Voter education campaign. While the fiscal note assume that the DOS will conduct an outreach campaign, it is assumed that county clerks must also conduct outreach voters to supplement the high-level statewide campaign with more targeted local information. Costs by county size are estimated to be:

- \$114,000 and \$203,000 for a large county;
- \$28,000 and \$83,000 for a medium county; and
- \$3,000 and \$7,000 for a small county.

Absentee voting. Counties will require additional staff to communicate with voters, receive and verify absentee voting requests, and enter information into SCORE. Costs to counties will depend on the population of voters meeting the criteria in the bill for absentee voting.

Voter registration records. The bill requires withdrawal from the Electronic Registration Information Center, which may increase workload and costs to record and maintain voter data entry, and for mailing costs.

Other costs. Counties will incur increased costs and workload to meet requirements related to ballot counting and the provision of sample ballots to necessary parties.

Criminal justice costs. Similar to the state, it is expected that workload and cost increases for district attorneys to prosecute additional offenses will be minimal. Workload and revenue may also increase for Denver County Court, which is operated and funded by the City and County of Denver.

Effective Date

The bill was postponed indefinitely by the House State, Civic, Military, and Veterans Affairs Committee on March 14, 2022.

State Appropriations

For FY 2022-23, the bill requires an appropriation of \$770,400 to the Department of State from the Department of State Cash Fund.

State and Local Government Contacts

Counties	County Clerks	Information Technology
Judicial	Law	Secretary of State

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.