



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 16, 2022)

Drafting Number:	LLS 22-0676	Date:	March 9, 2022
Prime Sponsors:	Sen. Hansen; Buckner Rep. Tipper; Bacon	Bill Status:	House SCMVA
		Fiscal Analyst:	Matt Bishop 303-866-4796 Matt.Bishop@state.co.us

Bill Topic: **ARTIFICIAL INTELLIGENCE FACIAL RECOGNITION**

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input 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 establishes a task force to study artificial intelligence and creates accountability procedures for the use of facial recognition services by state and local governments. It increases state and local expenditures on an ongoing basis beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$12,053 to the Legislative Department.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under SB 22-113**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$12,053	\$16,384
	Centrally Appropriated	\$2,994	\$3,339
	Total Expenditures	\$15,047	\$19,723
	Total FTE	0.2 FTE	0.2 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$1,808	\$2,458

Summary of Legislation

The bill creates a legislative task force to study artificial intelligence and creates processes around the use of facial recognition services by state and local governments, among other related measures.

Task force. The bill creates the Task Force for the Consideration of Artificial Intelligence to examine and provide recommendations concerning the use of artificial intelligence by agencies of state and local governments. The task force is comprised of representatives of the legislature, state and local governments, higher education, law enforcement, and the public, as appointed by the Joint Technology Committee. Non-legislative members serve without compensation. The task force is required to meet at least every four months and must submit a report to the committee by each October 1, starting in 2022. The task force repeals September 1, 2032, following a sunset review by the Department of Regulatory Agencies.

Accountability reports. Each agency of state or local government that uses or plans to use a facial recognition service is required to submit an accountability report to its reporting authority, as defined by the bill, and post a copy on the its website. The report is subject to a public comment period prior to finalization, and it must detail the manner in which data are collected and used, how the facial recognition service will be deployed, and how data are secured, among other requirements. The bill specifies requirements for testing facial recognition services, training service operators, human review of decisions made by the services, and records retention.

Law enforcement. Law enforcement agencies are prohibited from employing facial recognition services to identify, observe, or track an individual unless the agency obtains a warrant or a court order, if the agency has established probable cause for such use, or if exigent circumstances exist. The bill specifies additional restrictions on the use of these services by law enforcement agencies.

Other measures. The bill includes several other provisions, including that:

- state and local agencies must disclose their use of a facial recognition service on an criminal defendant prior to trial;
- any judge who has issued or extended a warrant for the use of a facial recognition service during the previous year, or any state or local agency that applied for such a warrant, must report on the warrants each January;
- certain circumstances are exempt from these standards of conduct;
- schools, charter schools, and institute charter schools are prohibited from using a facial recognition service; and
- an agent authorized by an individual to access the individual's personal data or other information on their computer, network, or system does not commit a cybercrime.

State Expenditures

In FY 2022-23, the bill increases expenditures in the Legislative Department, increases workload in the Judicial Department, and potentially increases workload in state agencies in future years. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 22-113

	FY 2022-23	FY 2023-24
Legislative Department		
Personal Services	\$10,166	\$13,554
Legislator Per Diem and Travel	\$1,887	\$2,830
Centrally Appropriated Costs ¹	\$2,994	\$3,339
FTE – Personal Services	0.2 FTE	0.2 FTE
Total Cost	\$15,047	\$19,723
Total FTE	0.2 FTE	0.2 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Legislative Department. Legislative Council Staff requires 0.2 FTE to staff the committee, conduct research, and prepare reports. First-year costs reflect the General Fund pay date shift. Reimbursement for legislative committee members assumes two meetings in the first years and three meetings in future years, with a per diem of \$111.82 and average travel expenses of \$124.00, for each of the four members.

Judicial Department. The new procedures for issuance and reporting requirements for warrants require the department to update the case management system and create annual reports for the State Court Administrator. Based on the low incidence of facial recognition services currently employed, this workload can be accomplished within existing appropriations.

All state agencies. Expenditures will increase in any state agency that uses a facial recognition service to create accountability reports and to meet the public comment and training requirements. As no existing system subject to these requirements has been identified, no change in appropriations is required. To the extent that a state agency decides to utilize such a service in the future, expenditures will increase and be addressed in the annual budget process.

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 shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1 above, which will decrease the amount of General Fund available for other purposes.

Local Government

Similar to state agencies, to the extent that a local government decides to utilize a facial recognition service, its expenditures will increase to create accountability reports and to meet public comment and training requirements. Workload may also increase for local law enforcement agencies to obtain warrants.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to any contract for the use of a facial recognition service executed or extended on or after the bill's effective date.

State Appropriations

For FY 2022-23, the bill requires General Fund appropriations of \$12,053 to the Legislative Department as follows:

- \$10,166 and 0.2 FTE to Legislative Council Staff; and
- \$1,887 to the General Assembly.

State and Local Government Contacts

All State Agencies
Legislative Council Staff
Sheriffs

Counties
Legislative Legal Services

District Attorneys
Municipalities