



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 23-0762
Prime Sponsors: Rep. Bradley

Date: February 16, 2023
Bill Status: House State Affairs
Fiscal Analyst: Alexa Kelly | 303-866-3469
alex.kelly@coleg.gov

Bill Topic: PROHIBIT FOREIGN OWNERSHIP OF AG AND NATURAL RESOURCES

- Summary of Fiscal Impact:
[X] State Revenue
[X] State Expenditure
[] State Transfer
[] TABOR Refund
[] Local Government
[] Statutory Public Entity

The bill prohibits covered foreign persons from owning certain property interests in Colorado. It also requires covered foreign persons owning certain property interests to register with the Secretary of State and allows the Attorney General to take civil action against individuals who violate the bill.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$142,762 to the Department of State.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB23-1152

Table with 4 columns: Category, Budget Year FY 2023-24, Out Year FY 2024-25, and an unlabeled column. Rows include Revenue, Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts.

Summary of Legislation

The bill prohibits covered nonresident foreign citizens, entities, or governments (covered foreign persons) of the People's Republic of China, the Russian Federation, or any country that is on the United States Secretary of State list of state sponsors of terrorism from acquiring a controlling ownership share (more than 50 percent) of certain property interests. The restricted property interests include agricultural land, mineral rights, or water rights in Colorado.

Any covered foreign person that acquires the controlling ownership share in a property interest before January 1, 2024, may retain the property interest, but is prohibited from acquiring any additional controlling ownership in a property interest after this date. If any individual acquires a controlling ownership share of a property interest and later becomes a covered foreign person, that individual must sell or dispose of the property interest so that a controlling ownership share is no longer held.

Registration requirement. No later than March 1, 2024, or 60 days after acquiring any ownership of a property interest, a covered foreign person must register with the Colorado Secretary of State (SOS). The SOS may create rules to implement the registration requirements. If a covered foreign person fails to register with the SOS, they are subject to a penalty of up to \$2,000, credited to the General Fund.

Civil action and fines. The Attorney General must take civil action in the district court where the obtained property interest is located against any covered foreign person that is reasonably believed to violate the prohibition or not comply with the registration requirement. If the property interest is found to be acquired in a way that violates the bill, the state must then take possession of the property interest and sell it. Proceeds from the sale, less administrative costs, are returned to the covered foreign person that initially acquired the property interest. If any proceeds of the sale remain, they are transferred to the county treasurer of the county where the property interest is located.

State Revenue

Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Under current law, the SOS is authorized to adjust fees so that the revenue generated approximates its direct and indirect program costs. The SOS is primarily funded through business filing fees. To cover the costs described in the State Expenditures section below, fees may 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 SOS based on cash fund balance, total program costs, and the estimated number of professional activities subject to fees. This revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures by about \$146,000 from the Department of State Cash Fund for FY 2023-24 only. Costs are shown in Table 2 and described below.

Table 2
Expenditures Under HB 23-1152

	FY 2023-24	FY 2024-25
Department of State		
Personal Services	\$9,922	-
Computer Programming	\$132,840	-
Centrally Appropriated Costs ¹	\$3,132	-
Total	\$145,894	-
Total FTE	0.2 FTE	-

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

Department of State. The department will have increased costs to register covered persons whenever those persons acquire ownership of a restricted property interest. The department will add 0.2 FTE policy advisor to draft forms, train other employees, update the website, and provide legal research and rulemaking. The Information Technology Division in the SOS will require 1,080 hours of contractor time to develop the new database to accept new registrations, at the vendor rate of \$123 per hour.

Department of Law. The bill may also increase workload and expenditures in the Department of Law (DOL) if the department is required to take civil action against persons violating the bill. This fiscal note assumes that covered persons will comply with the law and that civil actions will be rare. If the DOL requires additional resources to pursue civil actions, that funding must be sought during 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.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$142,762 to the Department of State from the Department of State Cash Fund, and 0.2 FTE.

State and Local Government Contacts

Agriculture
Local Affairs
Secretary of State

Information Technology
Natural Resources

Judicial
Personnel

Law
Treasury