



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number: LLS 23-0538 **Date:** June 29, 2023
Prime Sponsors: Sen. Kirkmeyer **Bill Status:** Postponed Indefinitely
Rep. Bradfield **Fiscal Analyst:** Kristine McLaughlin | 303-866-4776
kristine.mclaughlin@coleg.gov

Bill Topic: **CANDIDATE BALLOT ACCESS FOR PRIMARY ELECTIONS**

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 checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill would have repealed the ability of major and minor political party candidates to qualify for the primary ballot via the assembly process and modified requirements for candidates to qualify for the primary ballot by petition. The bill would have increased state revenue and state and local expenditures on an ongoing basis starting in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill would have required an appropriation of \$1.7 million to the Department of State.

Fiscal Note Status: This fiscal note reflects the introduced bill. This bill was postponed indefinitely by the Senate State, Veterans, & Military Affairs Committee on February 16, 2023; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 23-101

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	Cash Funds	up to \$1.7 million	up to \$1.6 million
	Total Revenue	up to \$1.7 million	up to \$1.6 million
Expenditures	Cash Funds	\$1,661,387	\$1,613,047
	Centrally Appropriated	\$33,889	\$33,889
	Total Expenditures	\$1,695,276	\$1,646,936
	Total FTE	5.7 FTE	5.7 FTE
Transfers		-	-
Other Budget Impacts	TABOR Refund	up to \$1.7 million	up to \$1.6 million

Summary of Legislation

Under current law, a candidate of a major or minor political party can gain access to the primary election ballot via either the petition or assembly process. The bill eliminates the assembly process as a method for qualifying for the ballot, requiring all candidates to go through the petition process. The bill is applicable to candidates for any statewide office, congressional district office, the General Assembly, district attorney, or county office.

With respect to the petition process, this bill:

- allows voters who have been unaffiliated for at least 22 days to sign petitions in partisan elections;
- changes the date when signature collection can begin; and,
- makes the methods, deadlines and signature thresholds the same for major and minor party candidates.

State Revenue

The bill increases fee revenue in the Department of State by up to \$1.7 million per year starting in FY 2023-24, as outlined 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 business activities subject to fees. This revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures in the Department of State by about \$1.7 million per year starting in FY 2023-24, paid from the Department of State Cash Fund. A portion of these costs are paid to the Department of Personnel and Administration for signature verification and to the Department of Law for legal services. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 23-101**

	FY 2023-24	FY 2024-25
Department of State		
Personal Services	\$126,646	\$126,646
Operating Expenses	\$2,700	\$2,700
Capital Outlay Costs	\$13,340	-
Petition Signature Verification	\$787,086	\$787,086
Legal Services	\$696,615	\$696,615
Election Software	\$35,000	-
Centrally Appropriated Costs ¹	\$33,889	\$33,889
FTE – Personal Services	2.0 FTE	2.0 FTE
FTE – Legal Services	3.7 FTE	3.7 FTE
Total Costs	\$1,695,276	\$1,646,936
Total FTE	5.7 FTE	5.7 FTE

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

Personal services. Requiring that all candidates gain access to the ballot via the petition process increases the number of candidates required to submit petitions to the DOS for verification. DOS requires 2.0 FTE to manage this expanded process, including providing assistance and information to candidate campaigns, coordinating the review of signatures, and managing challenges and appeals after signature verification is complete. Standard operating and capital expenses are included for this new FTE.

Signature verification. The DOS contracts with Integrated Document Solutions, a division of the Department of Personnel and Administration, to review candidate petitions and verify signatures collected. DPA charges the DOS based on the hours needed to process petitions. The DPA can review about 50 signature per hour with a cost of \$99.77 per hour. The increased volume is expected to require about 8,000 additional hours annually.

Legal services. Currently, more than 20 percent of candidate petitions generate legal challenges and result in the use of 270 hours, on average, of legal services by the DOS. The fiscal note assumes that under the bill 10 percent of petitions will generate legal challenges, as many of the candidates who previously accessed the primary ballot by assembly are relatively stronger candidates and often are unopposed in seeking their party's nomination, which increases the chance of successfully gathering petitions and decreases the likelihood of legal challenges from opposing campaigns. Based on these data and assumptions, the fiscal note preliminarily estimates that the DOS will require 6,500 hours of legal services concerning candidate petitions and signature verification, at a cost of about \$700,000 per year. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.

Election software. In order to enable unaffiliated voters to sign petitions, the DOS will have a one-time cost of \$35,000 in FY 2023-24 to update petition signature review software.

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

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 December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. 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

Similar to the state impact above, the bill will increase costs for counties to verify additional signatures for county elections. On average, counties will have costs of about \$4,000 per candidate petitioning for access. For example, a county with 10 candidates for county commissioner positions at an election will have costs of about \$40,000.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$1,661,387 to the Department of State from the Department of State Cash Fund, and 2.0 FTE. From this amount, the following reappropriation of funds are required:

- \$787,086 to the Department of Personnel and Administration for Integrated Document Solutions services; and
- \$696,615 to the Department of Law for legal services, with an additional 3.7 FTE.

State and Local Government Contacts

Law	Counties	County Clerks
Municipalities	Personnel	Secretary of State