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Fiscal Note

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Prime Sponsors: Rep. Kipp; Soper Bill Status: House State Affairs
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Bill Topic: MODIFICATIONS TO THE COLORADO OPEN RECORDS ACT

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

The bill modifies the procedures for responding to record requests under the Colorado Open Records Act (CORA). The bill increases state and local expenditures beginning FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires appropriations totaling \$236,815 to multiple state agencies.

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

Table 1
State Fiscal Impacts Under HB 24-1296

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue, Expenditures (General Fund, Cash Funds, Federal Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

## **Summary of Legislation**

Under current law, when a public entity receives a request under the Colorado Open Records Act (CORA), the custodian of the records has three days to respond. This bill requires that the custodian respond within two days by providing an evaluation notifying the requester whether costs or fees apply to the request, and if any extenuating circumstances exist that affect the response period for providing records. If costs or fees do apply, then the notice must inform the requester that no action will be taken until the requester acknowledges the costs or revises the request. The bill expands the existing circumstances that allow a public entity to have a longer response period for CORA requests to account for the work schedule of the custodian and when records are currently in the custody of another authorized person.

The bill permits a custodian to determine that a CORA request is made by a vexatious requester, which means a person that requests records with the intent to annoy or harass the custodian, the public entity, or its employees or constituents. A person or entity determined to be a vexatious requester may appeal the determination in district court.

If a custodian determines a CORA request is for the direct solicitation of business for monetary gain, the custodian may take up to 30 days to respond to the request, and is entitled to recover the full cost associated with responding.

A custodian may deny inspection of records containing information that, if disclosed, would invade another individual's personal privacy, reveal contact information of public school students, or release an employee's work calendar. The calendar of an elected official or an employee in a leadership position remains subject to public request.

Finally, the bill allows a custodian to treat a CORA request made within 14 days of another request by the same person as one request, for the purposes of determining costs and fees for research and retrieval.

## **State Revenue**

To the extent that CORA requests are determined to be for certain business purposes, agencies may recover the full cost of responding to the request, which would increase state cash fund revenue relative to the cost recover currently allowed under CORA. The potential revenue from these types of requests has not been estimated.

## **State Expenditures**

The bill increases state expenditures by about \$328,000 in FY 2024-25 and by about \$368,000 in FY 2025-26, paid from a combination of General Fund, cash funds, and federal funds. State costs for personal services for multiple agencies are identified in Table 2 and described below. Personal service costs in FY 2024-25 are prorated for a presumed September 1 implementation and include standard operating expenses and capital outlay costs.

**Table 2  
Expenditures Under HB 24-1296**

	FY 2024-25	FY 2025-26
<b>Department of Early Childhood</b>		
Personal Services	\$50,676	\$63,345
Operating Expenses	\$1,024	\$1,280
Capital Outlay Costs	\$6,670	-
Centrally Appropriated Costs <sup>2</sup>	\$13,951	\$17,439
FTE – Personal Services	0.8 FTE	1.0 FTE
<b>CDEC Subtotal</b>	<b>\$72,321</b>	<b>\$82,064</b>
<b>Office of Economic Development</b>		
Personal Services	\$25,338	\$31,673
Operating Expenses	\$512	\$640
Capital Outlay Costs	\$6,670	-
Centrally Appropriated Costs <sup>2</sup>	\$6,976	\$8,719
FTE – Personal Services	0.4 FTE	0.5 FTE
<b>OEDIT Subtotal</b>	<b>\$39,496</b>	<b>\$41,032</b>
<b>Health Care Policy and Financing<sup>1</sup></b>		
Personal Services	\$50,676	\$63,345
Operating Expenses	\$1,024	\$1,280
Capital Outlay Costs	\$6,670	-
Centrally Appropriated Costs <sup>2</sup>	\$14,619	\$18,274
FTE – Personal Services	0.8 FTE	1.0 FTE
<b>HCPF Subtotal</b>	<b>\$72,989</b>	<b>\$82,899</b>
<b>Department of Treasury</b>		
Personal Services	\$50,676	\$63,345
Operating Expenses	\$1,024	\$1,280
Capital Outlay Costs	\$6,670	-
Centrally Appropriated Costs <sup>2</sup>	\$12,507	\$15,634
FTE – Personal Services	0.8 FTE	1.0 FTE
<b>Treasury Subtotal</b>	<b>\$70,877</b>	<b>\$80,259</b>
<b>Department of State</b>		
Personal Services	\$50,676	\$63,345
Operating Expenses	\$1,024	\$1,280
Capital Outlay Costs	\$6,670	-
Centrally Appropriated Costs <sup>2</sup>	\$14,015	\$17,519
FTE – Personal Services	0.8 FTE	1.0 FTE
<b>DOS Subtotal</b>	<b>\$72,385</b>	<b>\$82,144</b>
<b>Total Cost</b>	<b>\$328,069</b>	<b>\$368,399</b>
<b>Total FTE</b>	<b>3.6 FTE</b>	<b>4.5 FTE</b>

<sup>1</sup> Funding for HCPF is split between state and federal funds.

<sup>2</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Workload and personal services.** Generally, by compressing the amount of time required for custodians to initially respond to CORA requests, the bill increases workload and staff costs for state agencies. The departments identified in Table 2 require additional administrative staff to process CORA requests more quickly, and to work with department custodians to prepare the required evaluations and notifications for requesters. Other state departments will have increased administrative workload as well. If costs for other agencies exceeds resources, additional funding will be sought through the annual budget setting process.

The bill may also offset some costs to respond to CORA requests by permitting custodians to consider multiple requests as one, which may decrease costs by managing one request instead of multiple requests in some instances. Allowing custodians to withhold employee calendars may save some effort in converting those documents into useable PDF and removing confidential or personal details unrelated to the request. Also, classifying a requester as a vexatious requestor and extending the timeline for certain business requests may reduce workload in some situations.

**Trial courts and legal services.** To the extent a requestor appeals their status as a vexatious requester to the courts, workload in the trial courts in the Judicial Department will increase. This will also increase agencies' legal services costs for the Department of Law to assist in any litigation. It is assumed that these cases will be relatively rare and any trial court or legal services impact can be accomplished within existing resources.

**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. 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, decreasing the amount of General Fund available for other purposes.

## **Local Government**

Similar to state agencies, any local public entity subject to CORA will have an increase in workload and staff costs to evaluate requests and respond within the compressed initial response timeline. Also, classifying a requester as a vexatious requestor and extending the timeline for certain business requests may reduce workload in some situations.

## **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 requests made after this date.

## State Appropriations

For FY 2024-25, the bill requires the following General Fund appropriations:

- \$58,370 to the Department of Early Childhood Education, and 0.8 FTE;
- \$32,520 to the Office of Economic Development and International Trade, and 0.4 FTE;
- \$58,370 to the Department of the Treasury, and 0.8 FTE.

In addition, the bill requires the following FY 2024-25 appropriations from other fund sources:

- \$58,370 from the Department of State Cash Fund to the Department of State, and 0.8 FTE; and
- \$58,370 to the Department of Health Care Policy and Financing, split evenly between General Fund and federal funds, and 0.8 FTE.

## State and Local Government Contacts

All State Agencies

Counties

Municipalities

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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 the [General Assembly website](#).