



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Final Fiscal Note

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<b>Drafting Number:</b>	LLS 24-0110	<b>Date:</b>	June 6, 2024
<b>Prime Sponsors:</b>	Rep. Kipp; Soper Sen. Marchman	<b>Bill Status:</b>	Postponed Indefinitely
		<b>Fiscal Analyst:</b>	Josh Abram   303-866-3561 josh.abram@coleg.gov

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<b>Bill Topic:</b>	<b>MODIFICATIONS TO THE COLORADO OPEN RECORDS ACT</b>
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<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill modifies the procedures for responding to record requests under the Colorado Open Records Act. The bill may increase state revenue and will increase state and local workload beginning FY 2024-25.

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**Appropriation Summary:** No appropriation is required.

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**Fiscal Note Status:** The final fiscal note reflects the reengrossed bill. The bill was postponed indefinitely by the Senate State, Veterans and Military Affairs Committee on May 1, 2024; therefore, the impacts identified in this analysis do not take effect.

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## 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 must respond within a reasonable time frame, presumed to be three days. This period may be extended for extenuating circumstances, but must not exceed seven days. Except for requests made by the news media, this bill presumes that a reasonable time frame is five days, and any extension must not exceed ten days. 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. If the custodian is unable to determine or access public records that are in the sole custody of another employee who is on leave or otherwise not available within the reasonable time frame, the custodian must provide available responsive public records and notify the requestor regarding the date of the employee's return or other circumstances.

The bill requires that public entities post their rules or policies concerning CORA on their website as well as post information on how to request inspection of public records. If no website is available, this information must be posted at the public entity's physical location.

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, and is entitled to recover the full cost associated with responding. A requester may submit a signed statement affirming that the requested records will not be used for monetary gain to be considered by the custodian, and may appeal a custodian's decision to the district court. The bill specifies that a request for records related to collective bargaining or similar activity is not a request for the direct solicitation of business for monetary gain.

A custodian may deny inspection of records containing information that, if disclosed, would 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.

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. Finally, the bill requires that members of the General Assembly retain certain public records for a minimum of 60 days.

### **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 recovery currently allowed under CORA. The potential revenue from these types of requests has not been estimated.

### **State Expenditures**

The bill may minimally increase workloads for state agencies to adjust internal policies and practices to allow for the bill's changes to procedures and deadlines. Extended deadlines to respond to requests may also shift workload for staff responsible for gather and reviewing records. Agencies must assemble and post instructions for the public request of records. Some state agencies using an online CORA portal will have additional costs for information technology upgrades to incorporate new response deadlines. The fiscal note assumes these costs are absorbable.

### **Local Government**

Similar to state agencies, any local public entity subject to CORA will have an increase in workload to update information and procedures for record requests. Also, 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 records requests made after this date.

### **State and Local Government Contacts**

All State and Local Agencies

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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](#).