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Final Fiscal Note

Drafting Number: LLS 24-0749 Date: July 2, 2024
Prime Sponsors: Rep. Hartsook; Lukens Bill Status: Signed into Law
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Bill Topic: MORE UNIFORM LOCAL MASSAGE FACILITIES REGULATION

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

The bill requires local governments to establish a process that requires background checks for massage facilities. The bill increases local government workload starting in FY 2024-25, and increases state revenue and expenditures starting in FY 2025-26.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 24-1371

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

Summary of Legislation

Under current law, local governments (counties, municipalities, and combined city and counties) may license massage facilities within their jurisdictions. The bill continues local government authority to license massage facilities and requires local governments to establish a process by October 1, 2025 that requires background checks for owners, operators, and certain employees of massage facilities, regardless of whether a local government licenses such facilities. This requirement does not apply to a local government that does not have any massage facilities within its jurisdiction.

Additionally, the bill specifies that operating a massage facility, regardless of local government licensure, is conditional on compliance with and results of required background checks.

Background

[House Bill 22-1300](#) allowed local governments to establish massage facility licensure and requirements consistent with that bill. According to the [Colorado Coalition of Massage Therapists](#), six municipalities and two counties currently have a massage facility licensure program.

Assumptions

The primary state impact from the bill is the requirement for background checks, which are required for owners, operators, and employees, excluding licensed massage therapists and independent janitorial service contractors, and are processed by the Department of Public Safety (CDPS). There is no available data identifying this specific population. To determine how many additional background checks will occur as a result of the bill, this fiscal note makes the following assumptions:

- local governments with existing massage facility regulations already incorporate background checks and criminal history considerations;
- based on the most recent available North American Industry Classification System (NAICS) data, there are a total of 889 businesses that could be massage facilities in local government jurisdictions that do not currently regulate massage businesses;
- about 10 percent, or 89 businesses, are massage facilities;
- that each business will have one owner or operator and three other employees that are not licensed massage therapists; and
- considering the above, there will be about 356 individuals that will be required to submit a background check as a result of this bill.

To the extent that the actual number of background checks differs from this estimate, state revenue and expenditures will also be higher or lower than estimated.

State Revenue

This bill increases state cash fund revenue to the CBI Identification Unit Cash Fund in CDPS by \$14,062 in FY 2025-26. This assumes 356 fingerprint-based criminal history background checks will be conducted. The current fee for background checks is \$39.50, which includes \$11.25 for a Federal Bureau of Investigation (FBI) fingerprint-based check, which is passed on to that federal agency. The federal portion of this fee, or about \$4,005, is excluded from the state TABOR limit.

State Expenditures

The bill increases state expenditures by \$7,266 in FY 2025-26 in CDPS, as well as workload in the Department of Regulatory Agencies (DORA), as discussed below.

Department of Public Safety. The bill increases cash fund expenditures for fingerprint-based criminal history background checks by \$7,266 in FY 2025-26 from the CBI Identification Unit Cash Fund in DPS. This covers the costs of conducting additional background checks and includes the pass through costs of the FBI component of the background check. These costs are based on an estimated 356 checks in FY 2025-26.

Department of Regulatory Agencies. DORA may be required to conduct outreach and education regarding the bill. Overall, this workload increase is expected to be minimal and no change in appropriations is required.

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 Table 1. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. 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

Expenditures will increase for local governments that are required to adopt resolutions and ordinances consistent with the bill, and revenue may increase for local governments that establish a licensure program. Because it is not known how many governmental entities will be required to create new regulations, these impacts have not been estimated. Workload may also increase for district attorneys to prosecute violations.

Effective Date

The bill was signed into law by the Governor on June 6, 2024, and takes effect on August 7, 2024, assuming no referendum petition is filed.

State and Local Government Contacts

Counties	Denver County Courts	District Attorneys
Judicial	Local Affairs	Municipalities
Public Safety	Regulatory Agencies	

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](#).