HB 18-1250

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number:	LLS 18-0773	**Date:**	March 13, 2018
Prime Sponsors:	Rep. Kraft-Tharp; Sias Sen. Priola	**Bill Status:**	House Business
		Fiscal Analyst:	Ryan Long | 303-866-2066 RyanC.Long@state.co.us

Bill Topic: ANALYSIS TO IMPROVE COMPLIANCE WITH RULES BY BUSINESSES

Summary of Fiscal Impact:

- ☒ State Revenue *(minimal)*
- ☒ State Expenditure *(minimal)*
- ☐ State Transfer
- ☐ TABOR Refund
- ☐ Local Government
- ☐ Statutory Public Entity

This bill requires state agencies to conduct an analysis of rule noncompliance. This bill increases workload in FY 2018-19 only.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

Under this bill, each state agency must conduct an analysis of noncompliance with its rules to identify rules that have the greatest frequency of noncompliance and generate the greatest amount of fines. The analysis must also identify the factors that contribute to noncompliance with rules by regulated businesses and the number of first time offenders given the opportunity to cure minor violations. Agencies must consider and review whether a rule is unclear and should be rewritten; or if more education or training would achieve better compliance.

The analysis must be forwarded to the Department of Regulatory Agencies (DORA), which will compile a combined analysis of noncompliance with state agency rules. The analysis must be included in DORA's SMART Act presentation.

State Revenue

To the extent that state agencies assess fewer fines as a result of a change identified in this analysis, state fine revenue may minimally decrease beginning in FY 2018-19. Fine revenue is deposited into the General Fund or various cash funds, depending on the agency.

TABOR Refund

The bill may minimally decrease state revenue subject to TABOR in FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus may be reduced.

State Expenditures

Beginning in the FY 2018-19, the bill increases the workload for all state agencies, including DORA specifically, as discussed below.

Department of Regulatory Agencies. For FY 2018-19 only, this bill increases workload in DORA to compile and summarize the agency analyses and include the information in the department's SMART Act presentation. Workload for the department will also increase to review and analyze rule noncompliance. It is expected that this workload increase can be accomplished within existing appropriations. Should additional resources be required, it will be requested through the annual budget process.

All agencies. In FY 2018-19 only, the bill increases the workload for state agencies in several ways. First, workload will increase to produce the required analysis, as well as to consider whether to rewrite rules or provide additional education to impacted businesses. Current practices vary among agencies; as a result, the extent of the workload increase will vary depending on the agency. In addition, agencies may require additional legal services for rulemaking. The fiscal note assumes that these workload increases will be accomplished within each agency's existing appropriation; however, should an agency require additional resources, it will be requested through the annual budget process.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

Departmental Difference

The fiscal note represents a least-cost implementation of the bill. It assumes that this bill will only require agencies to report on rule non-compliance that is already known and tracked, that departments will not be required to increase monitoring of rule compliance, and that much of this work is currently completed in the normal course of business. The departments of Public Health and Environment (CDPHE), Health Care Policy and Financing (HCPF), and Human Services (DHS) estimate an increase in expenditures and FTE to implement this bill. These estimates are described below.

Department of Public Health and Environment. CDPHE's analysis estimates that $89,467 and 0.8 FTE are needed in FY 2018-19 and $529,775 and 4.6 FTE are needed in FY 2019-20 to implement this bill. The estimate includes an increase in staffing to set up new processes to track compliance and violation information, analyze non-compliance data within current inspection processes, and prepare the data for DORA's report.

Health Care Policy and Financing. HCPF's analysis estimates that $208,000 for temporary staff is required in FY 2018-19 to implement this bill. This analysis assumes that staffing will increase to conduct a review of all department rules for non-compliance, draft and modify policies and programmatic guidelines, and respond to stakeholder input.

Human Services. DHS's analysis estimates that $155,875 and 1.8 FTE are required beginning in FY 2018-19 to implement this bill. This analysis assumes that increased staff time will be required to identify, track, and analyze noncompliance with rules, and to reach out to impacted entities to determine impact of rule compliance.

State and Local Government Contacts

All State Agencies