



**Colorado
Legislative
Council
Staff**

HB17-1223

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0157 **Date:** July 20, 2017
Prime Sponsor(s): Rep. Saine; Kraft-Tharp **Bill Status:** Signed into Law
 Sen. Neville T.; Jahn **Fiscal Analyst:** Ryan Long (303-866-2066)

BILL TOPIC: OSA FRAUD HOTLINE

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures	Minimal workload increase.	
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal workload increase.		

Summary of Legislation

Recommended by the Legislative Audit Committee, this bill directs the Office of the State Auditor (OSA) to establish and administer a telephone number, fax number, email address, mailing address, or internet-based form to allow people to report allegations of fraud committed by a state employee or state contracted individual. No person who submits an allegation of fraud to the hotline is required to submit their name or contact information, and the OSA cannot publically disclose the identity of any individual who contacts the hotline without express permission. This restriction does not apply when the OSA makes a disclosure to a law enforcement agency, a district attorney, the Attorney General in connection with a criminal investigation or fraud by a Medicaid provider or contractor, or the Department of Health Care Policy and Financing in cases involving a Medicaid recipient. An employee of a financial institution is not permitted to disclose personally identifiable or confidential information when making a report to the hotline.

After an initial screening of a fraud allegation, the OSA must consult and coordinate with the affected state agency. After receiving a referral from the OSA, it is the responsibility of the state agency to take appropriate action in response to the referral and report back to the OSA. At the request of a state agency, the OSA can either participate in or conduct an investigation of a hotline call. This investigation does not constitute a criminal investigation. In these cases, the following requirements apply:

- at all times the OSA has access to all of the information maintained by the agency directly related to the scope of the investigation;
- the OSA must report the results of the investigation to the head of the affected agency;
- if the investigation finds evidence of alleged fraud that exceeds \$100,000, the OSA must report the results of the investigation to the Legislative Audit Committee; and

- the OSA must immediately report any illegal transactions or misuse or embezzlement of public funds or property to a law enforcement agency, a district attorney, or the Attorney General.

The OSA is required to publicize the existence and purpose of the hotline on its official website. Additionally, the OSA must prepare and maintain workpapers to document the purpose and activities of their office in connection with hotline calls and investigations. Workpapers must remain confidential and are not considered public records for the purposes of the Colorado Open Records Act. Commencing in FY 2018-19, the OSA must prepare an annual report to the Legislative Audit Committee summarizing activity related to the fraud hotline.

No disciplinary action can be taken against a state employee or employee of an entity under contract with the state for the disclosure of information to the fraud hotline. This does not apply to an employee who disclosed false information.

Background

The OSA currently operates a fraud reporting hotline to identify situations in which state employees may be using their position or access as state employees to commit fraud against the state or others. Allegations of fraud are referred to affected state agencies, counties, and municipalities. Currently, OSA can only pursue fraud hotline reports within the scope of their audit authority.

State Expenditures

As the OSA currently runs a fraud hotline, the workload increase to OSA can be accommodated within existing appropriations. To the extent that fraud investigations result in charges being filed against a state employee or contractor, there will be a minimal workload increase to the trial courts in the Judicial Department. It is assumed that disciplinary action in a majority of fraud investigations will be carried out by the state agencies themselves, and this workload increase can be accomplished within existing appropriations. To the extent that additional allegations of fraud are forwarded to agencies, the workload for state agencies may increase. It is assumed that any increase can be accommodated within existing appropriations, and if any additional funds are needed they will be requested through the annual budget process.

Effective Date

The bill was signed into law by the Governor on May 25, 2017, and takes effect August 9, 2017, assuming no referendum petition is filed.

State and Local Government Contacts

All State Agencies