



**Colorado
Legislative
Council
Staff**

HB17-1369

FISCAL NOTE

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

Drafting Number: LLS 17-0508
Prime Sponsor(s): Rep. Pabon
Sen. Marble

Date: May 2, 2017
Bill Status: House Finance
Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: BONDS PERSONS FAIL APPEAR DUE IMMIGRATION ISSUES

Fiscal Impact Summary	FY 2016-2017 <i>(current year)</i>	FY 2017-2018	FY 2018-2019
State Revenue	\$0	(\$17,738)	(\$17,738)
<i>State transfers</i>			
General Fund	at least 53,191		
Cash Funds	at least (53,191)	(17,738)	(17,738)
State Expenditures	Potential reduction.		
TABOR Impact		(\$17,738)	(\$17,738)
Appropriation Required: None.			
Future Year Impacts: Ongoing decrease in state cash fund revenue.			

Summary of Legislation

This bill allows a person or professional bail bonding agent (surety) who posts a bail bond for a defendant to recover the bond if the surety can provide the court satisfactory evidence that the defendant was deported. Upon a motion and affidavit from the surety, and if the district attorney does not object, the court may cancel the surety's liability rather than require a forfeiture of the bond.

Law enforcement procedures. The bill states that law enforcement agencies holding a defendant must not notify the defendant's surety before the bond is posted that his or her bond or fees may be forfeited if the defendant is deported. Waivers before posting bond are no longer permitted.

County Jail Assistance Fund. The bill repeals the part of statute that directs half of all forfeited bond and fee revenue collected as a result of deportation to the Corrections Expansion Reserve Fund and half to the County Jail Assistance Fund. The bill abolishes the County Jail Assistance Fund as of June 30, 2017, and transfers any unexpended money in the fund to the General Fund.

Background

Money in the County Jail Assistance Fund is annually appropriated to the Department of Corrections (DOC) for allocation to counties for the maintenance and operation of county jails. Money in the Corrections Expansion Reserve Fund is annually appropriated to DOC to build new prison facilities and to cover associated operating costs. The Judicial Department transferred a total of \$22,675 (\$11,337.50 to each fund) in FY 2014-15 and \$12,800 (\$6,400 to each fund) in FY 2015-16.

State Revenue

In the current FY 2016-17, the bill transfers at least \$53,191 from DOC to the General Fund. Beginning in FY 2017-18, the bill reduces cash fund revenue in DOC by approximately \$17,738 per year.

State transfers. The bill transfers all unexpended funds in the County Jail Assistance Fund to the General Fund on June 30, 2017. As of this writing, the balance of the fund is \$53,191.

Department of Corrections. Under the bill, bond and fee money typically forfeited when a defendant is deported may no longer be forfeited if a surety fulfills the requirements to recover the bond. Assuming most sureties comply with the requirements, cash fund revenue in the Corrections Expansion Reserve Fund and County Jail Assistance Fund in DOC will decrease. The fiscal note assumes a total reduction in state cash fund revenue of \$17,738 (\$8,869 in each fund) based on the last two years' revenue transfers.

TABOR Impact

This bill reduces state cash fund revenue from bond forfeitures, which will reduce the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. TABOR refund obligations are not expected for FY 2016-17. Since the bill reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount.

State Expenditures

Beginning in the current FY 2016-17, this bill increases workload for the Judicial Department for hearings related to motions for exoneration of liability for bail bonds. This increase in workload does not require any increase in appropriations. The bill may also decrease state expenditures in DOC from payments from the County Jail Assistance Fund to county jails. The Judicial Department and DOC report, however, that to date no funds have been disbursed from the County Jail Assistance Fund.

Local Government Impact

To the extent that funds in the County Jail Assistance Funds would have been distributed to county jails, revenue to local governments will decrease as a result of the bill. Workload may increase for district attorneys to appear at hearings initiated by sureties.

Technical Note

Current law directs that bond revenue collected as a result of deported defendants go to two cash funds. The bill repeals this section of current law, making the statute silent on where bond revenue should go in the event that a surety does not file a motion to recover the bond.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Corrections
Information Technology
Sheriffs

Counties
Judicial

District Attorneys
Regulatory Agencies