



Legislative
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FISCAL NOTE

Drafting Number: LLS 18-0689 **Date:** February 5, 2018
Prime Sponsors: Rep. Herod **Bill Status:** House Judiciary
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Bill Topic: CIVIL FORFEITURE REFORMS

- Summary of Fiscal Impact:**
- State Revenue
 - TABOR Refund
 - State Expenditure
 - Local Government
 - State Transfer
 - Statutory Public Entity

This bill makes changes to civil asset forfeiture reporting requirements and establishes two law enforcement grant programs. Overall, this bill increases state and local government revenue and expenditures.

Appropriation Summary: See state appropriations section.

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

**Table 1
State Fiscal Impacts Under HB 18-1020**

		FY 2018-19	FY 2019-20	FY 2020-21
Revenue	Cash Funds	\$416,667	\$500,000	\$500,000
	Total	\$416,667	\$500,000	\$500,000
Expenditures	Cash Funds	\$1,487,821	\$1,558,904	\$2,302,701
	Centrally Appropriated	\$12,179	\$29,324	\$29,324
	Total	\$1,500,000	\$1,588,228	\$2,332,025
	Total FTE	0.8 FTE	2.0 FTE	2.0 FTE
Transfers		-	-	-

Summary of Legislation

House Bill 17-1313 required state and local agencies involved in the seizure of property (seizing agencies) as part of a criminal investigation to submit reports to the Department of Local Affairs (DOLA) and created a \$50,000 threshold for receiving proceeds from federal seizures. This bill defines a reporting agency for the purpose of making it clear which agencies are required to submit seizure reports to DOLA. This bill also adds seizures related to local public nuisance laws or ordinances to the list of seizures to be reported and creates two law enforcement grants.

Law enforcement assistance grant program. The Law Enforcement Assistance Grant Program, administered by the Department of Public Safety (DPS) is created to reimburse local governments for revenue lost from the changes established under HB17-1313. Seizing agencies can apply for grants for up to the amount they would have received prior to the passage of HB17-1313. Awarded grant funds are to be used only for purposes permissible under federal equitable sharing guidelines, such as operations and investigations, training and education, equipment and supplies, joint law enforcement and public safety operations, and community-based programs. Beginning August 1, 2019, and each year thereafter, agencies must report how grant funds were used. DPS must report to the General Assembly beginning October 1, 2019 and each year thereafter on this program.

Law enforcement community services grant program. The Law Enforcement Community Services Grant program, administered by DOLA is created to provide funding to law enforcement agencies, local governments, and community organizations to improve services to the community through policing, outreach, drug intervention, prevention, treatment, recovery, technology, training, and other community services. The Law Enforcement Community Services Grant Program Committee which consists of 17 members, is also created. DOLA is not required to create this grant program until sufficient funds have been received and can only spend five percent of funds for the administration of the grants. DOLA is authorized to accept and expend gifts, grants, and donations for this program. Once created, DOLA is required to report on this grant program as part of its annual SMART Act hearing beginning December 1, 2019.

Seized property distribution formula. Under current law, the proceeds from seized personal property are distributed according to a formula with 50 percent going to the governing body of the seizing agency and 50 percent going to the managed service organization (MSO) that contracts with the Office of Behavioral Health in the Department of Human Services (DHS) and serves the judicial district where the seizure was prosecuted. This bill changes the distribution formula to give 25 percent to the MSO with the other 25 percent being distributed to the newly created Law Enforcement Community Services Grant Fund. Under the new distribution formula, 50 percent still goes to governing body of the seizing agency.

Background and Assumptions

Upon signing HB17-1313 into law, the Governor ordered DPS and DOLA to form a task force to review and develop civil asset forfeiture reform recommendations. Many of the task force recommendations are included in this bill.

Law enforcement assistance grant program. To fund this grant program, DPS requested a \$1.5 million FY 2018-19 budget amendment using Marijuana Tax Cash Funds. Since all local governments involved in seizure related activities that have lost revenue under HB 17-1313 will be eligible for this grant, up to 333 grant applications could be received (64 counties, 269 municipalities).

Law enforcement community services grant program. This analysis assumes \$500,000 per year will be allocated to the Law Enforcement Community Services Grant Fund from revenue that is currently distributed to the MSOs (\$250,000) and increased revenue from proceeds from seized property under the state system that were previously processed through the federal system prior to HB17-1313 (\$250,000). Funds in year one are prorated based on this bill's September 1, 2018, effective date.

This analysis assumes grant administration will begin in FY 2019-20 and the first grant awards will be made in FY 2020-21 to allow for the receipt of funds to be used on the administration of the program. There are 2,422 local governments (64 counties, 269 municipalities, 2,089 special districts) that are eligible for this grant and an unknown number of community organizations.

Department of Human Services. According to DHS, proceeds from seized property are directly allocated to the MSOs, therefore changing the distribution formula does not impact DHS revenues or expenditures.

State Revenue

Beginning in FY 2018-19 and continuing thereafter, this bill increases DOLA cash fund revenue. Under current law, 50 percent of the proceeds from seized property are allocated to the MSOs. By changing the distribution formula to require 25 percent of forfeiture proceeds to be allocated to DOLA, cash fund revenue credited to the Law Enforcement Community Services Grant Fund will increase by \$416,667 in FY 2018-19 and \$500,000 in FY 2019-20 and future years. Revenues are prorated in the first year due to the effective date of the bill.

To the extent that DOLA receives gifts, grants, and donations, state cash fund revenue credited to the Law Enforcement Community Services Grant Fund will increase. No sources of gifts, grants, and donations have been identified at the time of this writing.

TABOR Refund

The bill increases state cash fund revenue from proceeds from seized property subject to TABOR by \$416,667 in FY 2018-19 and \$500,000 in FY 2019-20. Gifts, grants, and donations are exempt from TABOR. State revenue is not currently expected to exceed the TABOR limit and no refund is required. Therefore, the bill is not expected to impact TABOR refunds. However, refunds in future years when the state next collects a TABOR surplus will be increased.

State Expenditures

This bill increases state expenditures in the DPS, DOLA, and the Legislative Department. These impacts are shown in Table 2 and discussed below.

**Table 2
Expenditures Under HB 18-1020**

Cost Components	FY 2018-19	FY 2019-20	FY 2020-21
Department of Public Safety			
Personal Services	\$57,084	\$68,500	\$68,500
Operating Expenses and Capital Outlay Costs	\$5,463	\$950	\$950
Travel	\$2,000	\$2,000	\$2,000
Law Enforcement Assistance Grants	\$1,423,274	\$1,413,586	\$1,413,586
Centrally Appropriated Costs*	\$12,179	\$14,964	\$14,964
FTE – Personal Services DPS	0.8 FTE	1.0 FTE	1.0 FTE
Dept (Subtotal)	\$1,500,000	\$1,500,000	\$1,500,000
Department of Local Affairs			
Personal Services	-	\$61,817	\$61,817
Operating Expenses and Capital Outlay Costs	-	\$5,653	\$5,653
Legal Services	-	\$1,598	\$1,598
Mileage	-	\$735	\$735
Postage and Printing	-	41,500	-
Law Enforcement Community Services Grants	-	-	\$750,000
Centrally Appropriated Costs*	-	\$14,315	\$14,315
FTE – Personal Services DOLA	-	1.0 FTE	1.0 FTE
Dept (Subtotal)	-	\$85,619	\$829,416
Legislative Department			
Per Diem and Travel	-	\$2,564	\$2,564
Centrally Appropriated Costs*	-	\$45	\$45
Dept (Subtotal)	-	\$2,609	\$2,609
Total	\$1,500,000	\$1,588,228	\$2,332,025
Total FTE	0.8 FTE	2.0 FTE	2.0 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Safety. The Department of Public Safety requires 1.0 FTE to administer the Law Enforcement Assistance Grant Program. Duties for this position include developing grant policies and procedures, reviewing grant applications to ensure amounts requested are consistent with lost revenue from HB17-1313, overseeing the use of grant funds to ensure they are permissible under federal equitable sharing guidelines, and preparing grant funding reports. Standard operating and capital outlay costs are included along with travel funds for grant recipient site visits. Costs in year one are prorated based on the bill's effective date. All seizing agencies that have lost revenue under HB17-1313 will be eligible to receive grant funding. This analysis estimates approximately \$1.4 million will be available for grant awards to seizing agencies per year and up to 333 local governments will apply.

The Colorado State Patrol and Colorado Bureau of Investigation in DPS are eligible to receive Law Enforcement Community Services Grant Program funds. To the extent that these funds are applied for and received, state expenditures and workload will increase.

Department of Local Affairs. Beginning in FY 2019-20, the Department of Local Affairs requires 1.0 FTE to manage the Law Enforcement Community Services Grant and to oversee the use of grant funds. Standard operating and capital costs have been included for this staff along with legal services to support the creation of grant policies, mileage to visit and train grant applicants, and printing and postage to provide grant availability notifications. For informational purposes, this analysis estimates grant awards of \$750,000 can be made in FY 2020-21 and approximately 2,400 governments will be eligible to apply. The timing and actual award amount available will be determined by DOLA depending on the receipt of sufficient revenues. Refer to the Technical Note Section for additional information.

Law Enforcement Community Services Grant Program Committee. This bill increases workload for state agencies that will have members on the Law Enforcement Community Services Grant Program Committee. This includes DOLA, DPS, and the Department of Law. This workload increase is expected to be minimal and can be accomplished within existing appropriations.

Legislative Department costs and workload are also expected to increase for two legislators, one from the House of Representatives and one from the Senate to serve on this committee. Costs are expected to increase \$2,564 per year based on a \$110.50 per diem and \$210 in travel costs per legislator per meeting. This assumes four meetings per year beginning in FY 2019-20.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$12,179 in FY 2018-19 and \$29,324 in FY 2019-20 and each year thereafter.

Local Government

Beginning in 2018-19, this bill increases revenue, expenses, and workload for local seizing agencies, which include county and municipal agencies. Revenue and expenses are increased to the extent that grant funds are received. Workload is increased to report on seizures related to local public nuisance laws and on the use of law enforcement assistance and community services grant funds. The exact impact on a particular local government will depend on the number of seizure activities and grant funds received and has not been determined.

This bill also increases local government workload from membership on the Law Enforcement Community Services Grant Program Committee. This includes a county, municipal, District Attorney, Sheriff, and, Chief of Police representative.

Technical Note

This bill limits the amount DOLA may spend on the administration of the Law enforcement Community Services Grant program to five percent. Based on estimated annual revenue from seized property proceeds and costs identified in this analysis, 5 percent is not sufficient to administer the grant program.

Effective Date

The bill takes effect September 1, 2018.

State Appropriations

For FY 2018-19, the DPS requires a cash fund appropriation of \$1,487,821 and allocation of 1.0 FTE from the Marijuana Tax Cash Fund.

State and Local Government Contacts

Counties
Local Affairs
Public Safety

Human Services
Municipalities

Information Technology
Sheriffs