



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

# FINAL FISCAL NOTE

<b>Drafting Number:</b>	LLS 19-0869	<b>Date:</b>	September 13, 2019
<b>Prime Sponsors:</b>	Sen. Fields; Gardner Rep. Roberts	<b>Bill Status:</b>	Signed into Law
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**Bill Topic:** POST BOARD REVOKE CERTIFICATION FOR UNTRUTHFUL STATEMENT

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue ( <i>minimal</i> )	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires the revocation of a peace officer standards and training (POST) certification when the POST Board receives notice from a law enforcement agency that a peace officer made untruthful statements or omitted material facts. This bill increases state revenue and expenditures and may increase local government workload and costs. These impacts are ongoing.

**Appropriation Summary:** For FY 2019-20, this bill requires and includes an appropriation of \$40,056 to the Department of Law.

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

**Table 1  
State Fiscal Impacts Under SB 19-166**

		FY 2019-20	FY 2020-21
<b>Revenue</b>		-	-
<b>Expenditures</b>	Cash Funds	\$40,056	\$35,353
	Centrally Appropriated	\$13,199	\$12,705
	<b>Total</b>	<b>\$53,255</b>	<b>\$48,058</b>
	<b>Total FTE</b>	<b>0.6 FTE</b>	<b>0.6 FTE</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## **Summary of Legislation**

This bill requires the revocation of a peace officer standards and training (POST) certification when the POST Board receives notice from a law enforcement agency that a peace officer knowingly made an untruthful statement or knowingly omitted a material fact on a criminal justice record, while testifying under oath, or during an internal affairs investigation or administrative investigation and disciplinary process. The law enforcement agency must certify that it has completed a process to review, and determined through clear and convincing evidence, that the officer knowingly made an untruthful statement or omitted a material fact and the officer has elected not to exercise, or has exhausted, the internal disciplinary appeal rights provided by the officer's employer. This certification must be provided to the POST Board on a form created by the POST Board. This form requires the official submitting the form to attest, under penalty of perjury, that the statements are correct and complete to the best of the official's knowledge. Upon receipt of the form, the POST Board will notify the peace officer of their right to request a show cause hearing under POST Board rules. A peace officer may appeal the revocation under POST Board rules.

## **Background**

Under current law and POST Board rules, POST certification is revoked for any felony conviction, certain misdemeanors, and if the certification is found to have been issued under fraudulent pretenses. If the POST director determines a peace officer's certification should be revoked after an initial hearing, the director briefs the POST Board on the circumstances of the case and its revocation recommendation. After the POST Board votes on the revocation, an affected peace officer may appeal the revocation and have their appeal heard by a POST Board subcommittee. Any action taken by the subcommittee is considered final, but may be appealed in district court. In some circumstances, a peace officer may be ordered to undergo renewal of their POST certification, which requires the payment of \$150 for taking the POST exam and \$375 for skills testing, for a total of \$525.

## **Assumptions**

There are approximately 13,800 POST certified peace officers in Colorado. While a high level of compliance is assumed, this bill will increase the number of POST Board peace officer hearings regarding the possible revocation of POST certification. For the purposes of this analysis, it is assumed that 0.5 percent, or approximately 70 peace officers, will go through the revocation process described above annually. If the number of affected peace officers is higher or lower than 70, the fiscal note assumes appropriation adjustments will be made through the annual budget process.

## **State Revenue**

Beginning in FY 2019-20, this bill minimally increases state cash fund revenue from POST Board fees and civil filing fees. This revenue, which is subject to the state TABOR limits, is described below.

**POST Board fees.** State cash fund revenue credited to the POST Board Cash Fund will increase by \$525 for each peace officer ordered to renew their POST certification. It is unknown how many will be required to do this; therefore, this impact has not been estimated. For informational purposes only, if 20 peace officers identified in this analysis were required to renew their POST certification, cash fund revenue will increase by \$10,500.

**Civil filing fees.** To the extent that any peace officer challenges a POST certification revocation in district court, state cash fund revenue from civil filing fees will increase by \$235 per filing. While it is unknown how many challenges will occur, any increase is assumed to be minimal.

### **State Expenditures**

This bill will increase state cash fund expenditures in the Department of Law by \$53,255 and 0.6 FTE in FY 2019-20 and \$48,058 and 0.6 FTE in FY 2020-21 and future years. These impacts are summarized in Table 2 and discussed below.

**Table 2**  
**Expenditures Under SB 19-166**

	<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Department of Law</b>		
Personal Services	\$33,823	\$33,823
Operating Expenses and Capital Outlay Costs	\$6,233	\$1,530
Centrally Appropriated Costs*	\$13,199	\$12,705
<b>Total Cost</b>	<b>\$53,255</b>	<b>\$48,058</b>
<b>Total FTE</b>	<b>0.6 FTE</b>	<b>0.6 FTE</b>

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

**Department of Law.** The Department of Law requires 0.6 FTE for a compliance investigator to implement this bill. This staff will assist in the POST Board review process for certification revocations, which includes compiling and reviewing reports, transcripts, and internal affairs documentation, scheduling hearings, and providing correspondence to all parties involved. This is based on the assumption that 70 peace officers will have their certification subject to revocation and each will take 20 hours, for a total of 1,400 hours per year.

**Judicial Department.** To the extent that a peace officer challenges a POST certification revocation, workload will increase in the trial courts to hear this appeal. It is unknown how many of the revocations under this bill will be challenged in court. Because a district court judicial officer can process approximately 550 civil cases per year, this impact is anticipated to be minimal and can be accomplishing within existing appropriations.

**State agencies.** To the extent that a peace officer employed by a state agency makes an untruthful statement or omits material facts, this bill increases workload for state agencies to provide information related to the false statement or omission to the POST Board and to assist in the investigation. Recruitment, training, and other hiring and on-boarding costs may also be incurred for the replacement of a peace officer, to the extent that a peace officer's POST

certification is revoked as a result of this bill. Agencies potentially affected include the departments of Corrections, Law, Natural Resources, Public Safety, Revenue, and institutions of Higher Education. It is assumed that this impact will be minimal.

**TABOR Refunds.** This bill minimally increases state revenue from POST Board fees and filing fees, which will increase the amount of money required to be refunded under TABOR for FY 2019-20. Under current law and the December 2018 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

**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 \$13,199 in FY 2019-20 and \$12,705 in FY 2020-21.

### **Local Government**

Similar to the state, to the extent that a local law enforcement agency peace officer makes a false statement or omits facts, workload will increase to provide information to the POST Board and to assist with the investigation starting in FY 2019-20. Recruitment, hiring, and training costs may also be incurred to the extent that a peace officer's POST certification is revoked as a result of this bill.

### **Effective Date**

The bill was signed into law by the Governor on May 22, 2019, and took effect August 2, 2019.

### **State Appropriations**

For FY 2019-20, this bill requires and includes an appropriation of \$40,056 from the POST Board Cash Fund and an allocation of 0.6 FTE to the Department of Law.

### **State and Local Government Contacts**

Corrections  
Information Technology  
Municipalities  
Sheriffs

Counties  
Judicial  
Natural Resources

Higher Education  
Law  
Public Safety