



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 20-0902
Prime Sponsors: Rep. Van Winkle; Melton

Date: March 2, 2020
Bill Status: House Trans. & Local Gov.
Fiscal Analyst: Erin Reynolds | 303-866-4146
Erin.Reynolds@state.co.us

Bill Topic: RADIO COMMUNICATIONS POLICIES OF GOVERNMENT ENTITIES

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

This bill requires all state and local governmental entities in Colorado that encrypt their radio communications to enact an encryption policy by January 1, 2021. Policies must provide media members with access to unencrypted radio. The bill increases state and local expenditures beginning in FY 2020-21.

Appropriation Summary: For FY 2020-21, the bill requires an appropriation of \$504,000 to multiple state agencies.

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

Table 1
State Fiscal Impacts Under HB 20-1282

Table with 3 columns: Category, FY 2020-21, FY 2021-22\*. Rows include Revenue, Expenditures (General Fund), Transfers, and TABOR Refund.

\* FY 2021-22 costs will be addressed through the annual budget process once agency policies are put into place and implementation costs are known.

## Summary of Legislation

This bill requires all state and local governmental entities in Colorado that encrypt their radio communications to enact an encryption policy that:

- provides media members with unencrypted access, which may require an access approval process; and
- includes standards to prevent the government entity from imposing unreasonable obstacles to gain access to radio communications.

During development of the policy, the governmental entity must:

- consider providing unencrypted access to the public through alternative means;
- seek input from members of Colorado media; and
- establish a process for receiving feedback from other organizations and the public, via electronic means and through at least one public meeting.

A governmental entity that encrypts its radio communications on or before December 31, 2020, must enact an encryption policy pursuant to this section on or before January 1, 2021. A governmental entity that encrypts its radio communications on or after January 1, 2021, must enact an encryption policy pursuant to this section prior to encrypting its radio communications.

## State Revenue

The bill may increase state revenue from civil filing fees. For informational purposes, the civil filing fee for county court ranges from \$85 to \$135 depending on the amount of damages sought and the filing fee for district court is \$235. Civil filing fees are subject to TABOR.

## State Expenditures

This bill will increase workload for multiple state agencies to adopt an encryption policy as required by the bill in FY 2020-21. Once encryption policies are in place by January 2021, the bill will increase state expenditures in agencies that use radio communications and the Office of Information Technology, as well as workload in the Department of Law and potentially the Judicial Department. These impacts are shown in Table 2 and discussed below.

**Assumptions.** Actual costs will be determined by the policies that agencies put in place via the process outlined in the bill; however, since a policy must be adopted in the upcoming FY 2020-21, the fiscal note shows costs that assume all relevant agencies will provide equipment to media outlets upon request that enable those entities to monitor encrypted communications. Costs assume that each agency will have a library of radios available to members of the media.

**Table 2  
 Expenditures Under HB 20-1282**

	<b>Radio/Chargers Required</b>	<b>Cost Per Radio/Charger</b>	<b>FY 2020-21 Expenditures**</b>
<b>Agencies Using Radio*</b>			
Agriculture			\$72,000
Corrections			\$72,000
Higher Education	30	\$2,400	\$72,000
Human Services			\$72,000
Military and Veterans Affairs			\$72,000
Natural Resources			\$72,000
Public Safety			\$72,000
<b>Total Cost</b>			<b>\$504,000</b>

\* *Additional agencies may use radio and/or encrypted communications. This fiscal note represents information known to Legislative Council Staff as of writing.*

\*\* *Costs are initial estimates only. Actual costs will depend on policies enacted by state agencies and will be addressed through the annual budget*

**State agencies that utilize radio that may be encrypted.** The Department of Agriculture, the Department of Corrections, institutions of Higher Education, the Division of Youth Services in the Department of Human Services, the Department of Military and Veterans Affairs, the Colorado Parks and Wildlife in the Department of Natural Resources, and the Colorado State Patrol in the Department of Public Safety use radio in the course of regular operations. Due to the transmission of sensitive information, these agencies typically encrypt radio communications, or use one-to-one or talkgroup calling features. These agencies will have an increase in workload to develop an encryption policy, establish a media access process, and hold at least one public input meeting.

Starting January 2021, these agencies will have costs to implement an encryption policy, as shown in Table 2. As discussed above in the Assumptions section, these costs assume a purchase of additional radios to be provided to the media on an approved access basis. Costs may also include provision of a listening room, transcription of radio communications, and reprogramming fees paid to the Office of Information Technology (as discussed below). These impacts will be addressed through the annual budget process based on actual policies developed by each agency.

**Office of Information Technology.** The Office of Information Technology operates the Public Safety Communications Network. This network has 241 radio towers and is utilized by over 1,000 state and local government agencies. State agencies pay a user fee to the office for the use of the network, while current law prohibits a user fee to be charged to local governments. Future costs under the bill will be paid through reappropriated funds from affected state agencies, while local agency costs will require General Fund backfill. Appropriations will be requested through the budget process once policies are in place and full implementation costs are known.

**Department of Law.** The Department of Law will advise client agencies on the review and implementation of new policies associated with radio encryption within existing legal services budgets.

**Judicial Department.** The bill increases workload for trial courts to hear any civil actions brought against a state or local government entity regarding its radio encryption practices. This impact is assumed to be minimal.

**TABOR refunds.** The bill may increase General Fund obligations for TABOR refunds from civil filing fee revenue beginning in FY 2020-21. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

## Local Governments

**Radio encryption policy and policy implementation.** Beginning in FY 2020-21, local governments, school districts, and other political subdivisions that encrypt radio communications will have increased legal and administrative expenses to draft the mandated policy, gather input from Colorado media members and the public, and conduct the required public meeting regarding the adoption of the encryption policy. Beginning in January 2021, these entities will incur costs to reprogram or purchase new radios and other equipment.

**District attorneys and Denver County Court.** The bill increases workload for district attorneys to the extent these entities are involved with potential civil actions under the bill. Similarly, the bill may increase revenue and costs for the Denver County Court, which is managed and funded by the City and County of Denver, to hear any civil actions under the bill.

## Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

## State Appropriations

In FY 2020-21, the following agencies each require a General Fund appropriation of \$72,000:

- the Department of Agriculture;
- the Department of Corrections;
- the Department of Higher Education;
- the Department of Human Services;
- the Department of Military and Veterans Affairs;
- the Department of Natural Resources; and
- the Department of Public Safety.

## State and Local Government Contacts

All State and Local Agencies