



**Colorado
Legislative
Council
Staff**

SB17-023

FISCAL NOTE

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

Drafting Number: LLS 17-0191
Prime Sponsor(s): Sen. Gardner

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Bill Status: Senate SVMA
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: REGISTER ATHLETE AGENTS REVISED UNIFORM ACT 2015

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019	FY 2019-2020
State Revenue	<u>\$25,000</u>	<u>\$3,000</u>	<u>\$28,000</u>
Cash Funds	25,000	3,000	28,000
State Expenditures	<u>\$52,530</u>	Minimal workload increase. See State Expenditures section.	
Cash Funds	52,530		
TABOR Impact	\$25,000	\$3,000	Not estimated.
Appropriation Required: \$52,530 - Department of State (FY 2017-18).			
Future Year Impacts: Ongoing state revenue and minimal workload increase.			

Summary of Legislation

This bill, *recommended by the Colorado Commission on Uniform State Laws*, repeals and reenacts the "Revised Uniform Athlete Agents Act" (RUAAA). An athlete agent is a professional who contracts with student athletes to represent them for purposes of securing a professional sports services or endorsement contract, or who advises the athlete in financial, business, or career management issues or manages those issues on the athlete's behalf.

The bill creates a registration program for athlete agents in the office of the Secretary of State (SOS), effective January 1, 2018. Athlete agents must register with the SOS every two years and pay a registration fee established by the SOS, to be deposited in the newly created Athlete Agents Registration Fund.

The bill establishes requirements for registration and renewal, specifies circumstances in which an application may be declined, and identifies cases in which a registration may be suspended or revoked. The bill also lists requirements for contracts between athletes and agents, and specifies prohibited conduct by an agent and the criminal penalties and civil remedies for a violation.

Certain notices are required to be given to educational institutions where student athletes enter into a contract with an athlete agent. Educational institutions are required to notify the SOS and the professional league or players association with which an athlete agent is associated if a violation of the RUAAA occurs.

The program repeals, pending a sunset review, on September 1, 2027.

Background

House Bill 08-1058 established the original Uniform Athlete Agents Act, which required the Division of Professions and Occupations within the Department of Regulatory Agencies (DORA) to regulate athlete agents. DORA registered six athlete agents during the registration program's existence. House Bill 10-1128 repealed much of the act and terminated the requirement that DORA regulate athlete agents; however, the criminal and civil penalties were not repealed and remain in current law.

Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. The criminal and civil penalties for violating provisions of the Uniform Athlete Agents Act were left in the statute after the act was substantially repealed. The bill reenacts the penalties as they are under current statute — a class 2 misdemeanor for first offense, and a class 6 felony for a second and subsequent offense — and expands the list of prohibited conduct to include failing to register with the SOS; initiating contact with a student athlete if unregistered; and encouraging an individual to act on behalf of the athlete agent. Since 2008, there have been no criminal charges filed against athlete agents.

Assumptions

The fiscal note assumes that:

- 25 athlete agents will register in FY 2017-18, based on the 6 that were registered by DORA from 2008 through 2010, and accounting for population increases and industry growth;
- 3 new agents will register each subsequent year; and
- athlete agents will comply with the law.

State Revenue

The bill increases revenue to the Athlete Agents Registration Fund in SOS by an estimated \$25,000 in FY 2017-18, \$3,000 in FY 2018-19, and \$28,000 in FY 2019-20 from registration and renewal fees. While the bill could increase fine revenue from criminal penalties, civil penalties, and court fees, the fiscal note assumes a negligible increase in fine revenue, which is discussed further below.

Fee impact on athlete agents. The bill requires the SOS to determine registration and renewal fees by rule. State law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 estimates the fee amount necessary to cover the estimated cost of the registration program. These are *estimates only*, actual fees will be determined by rule by the SOS. Fees as estimated allow the SOS to recover implementation costs within three fiscal years.

Table 1. Fee Impact on Athlete Agents Under SB17-023				
Fiscal Year	Fee Type	Estimated Fee	Number Affected	Total Fee Impact
FY 2017-18	Initial 2-year Registration	\$1,000	25	\$25,000
FY 2018-19	Initial 2-year Registration		3	3,000
FY 2019-20	Renewal Registration		25	25,000
	Initial 2-year Registration		3	3,000
			FY 2017-18	\$25,000
			FY 2018-19	3,000
			FY 2019-20	28,000
THREE-YEAR TOTAL				\$56,000

Criminal and civil penalties. The criminal penalties for prohibited conduct under the bill include a class 2 misdemeanor for a first offense, and a class 6 felony for a second and subsequent offense. While these penalties exist in current law, the list of prohibited conduct is expanded slightly under the bill (see Comparable Crime section). Because there have been no criminal violations filed against athlete agents, the fiscal note assumes a negligible increase in state revenue to the Fines Collection Cash Fund in the Judicial Department. As a point of reference, the fine penalty for a class 2 misdemeanor ranges from \$250 to \$1,000, and the fine penalty for a class 6 felony ranges from \$1,000 to \$100,000.

The bill also increases the civil penalty from a maximum of \$25,000 to a range from \$25,000 to \$50,000, and classifies these penalties as deceptive trade practices, with the fine revenue going to the General Fund. Again, because there have been no criminal filings under the original UAAA, the fiscal note assumes a negligible increase to General Fund revenue from civil penalties.

Court and administrative fees. The fiscal note assumes a negligible increase in criminal and civil case filings, and thus a negligible increase to state fee revenue. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court. Typical fees may include such items as probation supervision, drug or sex offender surcharges, genetic testing, victim compensation, late fees, and other administrative fees. Some fee revenue is shared with local governments; please refer to the Local Government Impact section for additional information.

TABOR Impact

This bill increases state cash fund revenue from registration fees in FY 2017-18, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. Since the bill increases 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 decrease by an identical amount.

State Expenditures

The bill increases state expenditures for the SOS by \$52,530 in FY 2017-18 to establish and administer a registration program for athlete agents. It is also expected to minimally impact workloads in the SOS, Judicial Department, educational institutes, the Department of Law, and the Department of Corrections on an ongoing basis.

Secretary of State. The SOS will create a basic online registration system that will allow applicants to create an account, submit registration information, and pay registration and renewal fees. The SOS will also display limited information about registered athlete agents on their website. The development cost is estimated at \$52,530 in FY 2017-18, using the \$103 per hour programming rate at 510 hours. Workload will also increase in FY 2017-18 for the SOS to implement the program, which will include creating forms, designing the filing system, and conducting rulemaking. On an ongoing basis, the SOS will respond to inquiries, process applications, work with other states, and investigate complaints. Due to the low estimated number of athlete agents, this workload can be accomplished with existing appropriations.

Judicial Department. The bill includes a class 2 misdemeanor for a first offense and a class 6 felony for a second or subsequent offense; however, those are existing penalties that were established by the original UAAA. There have been no criminal filings under the original UAAA. As a result, the fiscal note assumes that athlete agents will comply with the law and create no increase for the Judicial Department's criminal filings and workload.

Educational institutions. The bill slightly increases workload for institutions of K-12 and higher education by requiring these institutions to notify the SOS and other organizations if an athlete agent violates the law. These minimal workload impacts can be accomplished within the existing appropriations of these institutions.

Department of Law. The department will perform rulemaking for the SOS within that office's existing legal appropriation. Workload in the Attorney General's office may also minimally increase to the extent that deceptive trade practice complaints are filed under the bill; however, the fiscal note assumes that professionals will comply with the law. The office will review complaints under the bill within the annual body of deceptive trade practice complaints and assess which complaints to investigate.

Department of Corrections. To the extent that this bill increases the number of persons sentenced to the DOC, costs will increase. Should additional convictions occur, the fiscal note assumes the DOC will request additional appropriations through the annual budget process.

Local Government Impact

County court expenditures. The bill may increase workload for district attorneys to prosecute any new misdemeanor offenses under the bill. To the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under current law, a court may sentence an offender to jail for a class 2 misdemeanor for a period of between 3 and 12 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. The fiscal note assumes that the impact of this bill on county courts will be negligible.

Denver County Court expenditures. The bill may result in a negligible increase in workload for the Denver County Court, managed and funded by Denver City and County. The court will try class 2 misdemeanor offenses under the bill. Because the courts have the discretion of incarceration or imposing a fine, the precise impact cannot be determined but is expected to be negligible. For a class 2 misdemeanor, the fine range is from \$250 to \$1,000, and the jail sentence range is from 3 to 12 months. The cost to house an offender in county jails varies from \$53 to \$114 per day. Probation services in the Denver County Courts may also experience a negligible increase in workload to supervise persons convicted under the bill.

Technical Note

The bill creates the Athlete Agents Registration Fund in the SOS. It is expected that this fund will represent less than one percent of SOS revenue. As a result, the creation of this fund will likely add budgeting, accounting, and fee-setting complexity that would not exist if the Department of State Cash Fund were used instead. Additionally, because implementation costs will be expended prior to registration fee collection, the SOS may need to loan money to the new fund from the Department of State Cash Fund.

Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed. Athlete agents are required to register with the SOS by January 1, 2018.

State Appropriations

For FY 2016-17, the bill requires an appropriation of \$52,530 from the Athlete Agents Registration Fund to the Secretary of State's Office. The department may need to advance monies from the Department of State Cash Fund to the Athlete Agents Registration Fund (see Technical Note section).

State and Local Government Contacts

Corrections
Information Technology
Regulatory Agencies

Education
Judicial
Secretary of State

Higher Education
Law