

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING MEASURES TO ADDRESS SYNTHETIC OPIATES, AND, IN CONNECTION THEREWITH, CHANGING THE CRIMINAL PENALTIES ASSOCIATED WITH SYNTHETIC OPIATES; USING A SUBSTANCE ABUSE ASSESSMENT TO DIRECT APPROPRIATE TREATMENT AT SENTENCING; PROVIDING OPIATE ANTAGONISTS IN THE COMMUNITY; PROVIDING SYNTHETIC OPIATE DETECTION TESTS IN THE COMMUNITY; CREATING IMMUNITY FOR FURNISHING SYNTHETIC OPIATE DETECTION TESTS; PROVIDING TREATMENT FOR PERSONS IN THE CRIMINAL JUSTICE SYSTEM; DEVELOPING A FENTANYL PREVENTION AND EDUCATION CAMPAIGN; PROVIDING FUNDING FOR SUBSTANCE ABUSE AND HARM REDUCTION; EVALUATING THE SUBSTANCE ABUSE AND HARM REDUCTION NEEDS ACROSS THE STATE; REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT; AND MAKING AN APPROPRIATION.

Prime Sponsors: Reps. Garnett and Lynch
Sens. Pettersen and Cooke

JBC Analyst: Justin Brakke
Phone: 303-866-4958
Date Prepared: April 30, 2022

Appropriation Items of Note

Appropriation Already Added to Bill, Amendment in Packet

General Fund Impact

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/29/22.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.005	Staff-prepared appropriation amendment
L.200, L.207	Bill Sponsor amendments - do not change fiscal impact
L.203	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation

L.204/J.006	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation
L.205/J.007	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation

Current Appropriations Clause in Bill

The bill includes an appropriation clause that appropriates a total of \$2,372,602 General Fund, \$880,926 cash funds from the Correctional Treatment Cash Fund, and \$29.0 million cash funds from the Behavioral and Mental Health Cash Fund to multiple departments in FY 2022-23 as described below.

- The provision appropriates a total of \$4,033,875 to the **Department of Human Services** for FY 2022-23, including \$883,875 General Fund, \$150,000 from the Correctional Treatment Cash Fund, and \$3,000,000 cash funds from the Behavioral and Mental Health Cash Fund. The appropriation from the Behavioral and Mental Health Cash Fund is further appropriated to the Department from July 1, 2023, through December 30, 2024. This provision also states that a portion of the General Fund appropriation is based on an assumption that the Department of Human Services will require an additional 1.8 FTE.
- The provision appropriates \$869,288 to the **Judicial Department** for FY 2022-23, including \$138,362 General Fund, which is based on an assumption that the Department will require an additional 1.6 FTE, and \$730,926 from the Correctional Treatment Cash Fund.
- The provision appropriates \$1,350,365 General Fund to the **Department of Public Health and Environment**, a portion of which is based on an assumption that the Department of Public Health and Environment will require an additional 0.6 FTE.
- The provision appropriates \$26.0 million from the Behavioral and Mental Health Cash Fund to two continuously-appropriated cash funds managed by the **Department of Public Health and Environment**: \$20.0 million to the Opiate Antagonist Bulk Purchase Fund and \$6.0 million to the Harm Reduction Grant Program Cash Fund. The Opiate Antagonist Bulk Purchase Fund will support 1.5 additional FTE and the Harm Reduction Grant Program Cash Fund will support 1.0 additional FTE. These 2.5 FTE are not reflected in the appropriations clause because the cash funds are continuously appropriated.

Description of Amendments in This Packet

J.005 Staff has prepared amendment **J.005** (attached) to change the existing clause to:

- Appropriate an additional \$10,000,000 General Fund and an additional \$252,963 cash funds from the Correctional Treatment Cash Fund to the **Department of Human Services** for FY 2022-23, the latter of which is based on an assumption that the Department will require an additional 0.5 FTE;

- Appropriate \$150,000 General Fund to the **Department of Law** for FY 2022-23; and
- Appropriate an additional \$367,538 General Fund to the **Department of Public Health and Environment** in FY 2022-23, which is based on an assumption that the Department will require 0.9 additional FTE.

L.200 Bill Sponsor amendment **L.200** (attached) removes the requirement for labeling, storage, and record-keeping laws for opiate antagonists for those prescribing or dispensing an opiate antagonist.

L.203 Bill Sponsor amendment **L.203** (attached) stipulates that managed care entities shall use increased reimbursement rates for substance use treatments. The amendment also includes an appropriations clause providing \$10,000,000 General Fund and \$1,810,214 cash funds from the Healthcare Affordability and Sustainability Fee Cash Fund to the Department of Health Care Policy and Financing in FY 2022-23. This clause assumes that the Department will receive \$26,299,542 in federal funds for behavioral health capitation payments to increase rates for substance use treatment services.

L.204 and J.006

Bill Sponsor amendment **L.204** (attached) stipulates that a hospital or emergency department shall receive reimbursement for the cost of an opiate antagonist provided to a patient or other person upon discharge from a medical facility if the patient is at risk of experiencing an opiate-related drug overdose event. The amendment also specifies that the Department of Health Care Policy and Financing seek federal funds for these reimbursements and provide reimbursements with state-only money until federal funds are available.

Amendment **J.006** appropriates an additional \$360,000 General Fund to the Department of Health Care Policy and Financing in FY 2022-23.

L.205 and J.007

Bill Sponsor amendment **L.205** (attached) requires the Behavioral Health Administration under the Department of Human Services to train emergency departments and certified peace officers in the procedures for the involuntary commitment of a person with a substance use disorder pursuant to Section 27-81-112, C.R.S.

Amendment **J.007** appropriates an additional \$102,217 General Fund to the Department of Human Services in FY 2022-23, which is based on an assumption that the Department will require 1.8 additional FTE.

L.207 Bill Sponsor amendment **L.207** (attached) allows the \$3.0 million appropriation to the Department of Human Services from the Behavioral and Mental Health Cash Fund to be used to provide funding to jails to cover the services required pursuant to Section 17-26-

104.9, C.R.S.

The Committee may adopt L.200, L.203, and L.207 independent of any other amendments in this packet.

If the Committee adopts L.204, it should also adopt J.006.

If the Committee adopts L.205, it should also adopt J.007.

Points to Consider

General Fund Impact

The Joint Budget Committee has proposed a budget package for FY 2022-23 based on the March 2022 Legislative Council Staff revenue forecast. The budget package includes two set-asides:

- \$40.0 million General Fund for bills that create ongoing obligations; and
- \$900.0 million General Fund for bills that create one-time obligations in FY 2022-23.

The \$40.0 million *appropriations* set-aside includes an additional \$6.0 million General Fund to provide a 15.0 percent General Fund reserve for those appropriations. The \$900.0 million *obligations* set-aside does not include an additional amount for a General Fund reserve and, assumes, but does not require, that obligations be addressed through statutory transfers rather than appropriations. Therefore *appropriations* from the \$900.0 million set-aside require an additional 15.0 percent to maintain the statutory General Fund reserve.

This bill creates an ongoing obligation. The bill in its current form, as amended by the Senate Judiciary Committee, requires a General Fund appropriation of \$12,890,140 for FY 2022-23, reducing the \$40.0 million set aside by the same amount. If the Committee adopts sponsor amendments L.203 and L.204, the bill will require a total General Fund appropriation of \$23,250,140 in FY 2022-23, reducing the \$40.0 million set aside by the same amount.