



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 27, 2024)

Table with 4 columns: Drafting Number, Prime Sponsors, Date, Bill Status, Fiscal Analyst. Values include LLS 24-0110, Rep. Kipp; Soper; Sen. Marchman, March 18, 2024, House Appropriations, Josh Abram | 303-866-3561, josh.abram@coleg.gov

Bill Topic: MODIFICATIONS TO THE COLORADO OPEN RECORDS ACT

Table with 4 columns: Summary of Fiscal Impact, State Revenue, State Transfer, Local Government, State Expenditure, TABOR Refund, Statutory Public Entity. Includes checkboxes for each category.

The bill modifies the procedures for responding to record requests under the Colorado Open Records Act (CORA). The bill may increase state revenue and will increase state and local workload beginning FY 2024-25.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the House State, Civic, Military, and Veterans Affairs Committee.

Summary of Legislation

Under current law, when a public entity receives a request under the Colorado Open Records Act (CORA), the custodian of the records must respond within a reasonable time frame, presumed to be three days. This period may be extended for extenuating circumstances, but must not exceed seven days. Except for requests made by the news media, this bill presumes that a reasonable time frame is five days, and any extension must not exceed ten days. The bill expands the existing circumstances that allow a public entity to have a longer response period for CORA requests to account for the work schedule of the custodian and when records are currently in the custody of another authorized person.

The bill requires that public entities post rules or policies concerning CORA that inform the public how to request inspection of public records. The notification must be placed on the entity's website, or if no website is available, posted at the public entity's physical location.

A custodian of a public entity may apply to the district court for a determination that an individual or entity is a "vexatious requester," which means an individual or entity that requests records with the intent to annoy or harass the custodian, the public entity, or its employees or constituents. The custodian may rely on the court's order in responding to subsequent records requests submitted by a vexatious requester and may take up to 30 working days from the date of the request to respond. If a custodian determines a CORA request is for the direct solicitation

of business for monetary gain, the custodian may take up to 30 days to respond, and is entitled to recover the full cost associated with responding. A requester may apply to the district court for a determination that the request is not for direct solicitation or monetary gain

A custodian may deny inspection of records containing information that, if disclosed, would invade another individual's personal privacy, reveal contact information of public school students, or release an employee's work calendar. The calendar of an elected official or an employee in a leadership position remains subject to public request.

Finally, the bill allows a custodian to treat a CORA request made within 14 days of another request by the same person as one request, for the purposes of determining costs and fees for research and retrieval.

State Revenue

To the extent that CORA requests are determined to be for certain business purposes, agencies may recover the full cost of responding to the request, which would increase state cash fund revenue relative to the cost recovery currently allowed under CORA. The potential revenue from these types of requests has not been estimated.

State Expenditures

The bill may minimally increase workloads for state agencies to adjust internal policies and practices to allow for the bill's changes to procedures and deadlines. Extended deadlines to respond to requests may also shift workload for staff responsible for gather and reviewing records. Agencies must assemble and post instructions for the public request of records. Some state agencies using an online CORA portal will have additional costs for information technology upgrades to incorporate new response deadlines. The fiscal note assumes these costs are absorbable.

In limited cases, an agency or local government may have increased workload and legal expenses to file an action with the district court seeking to identify a requester as a vexatious requester, which will also increase workload and filing fees in the courts. This fiscal note assumes such actions will be infrequent and no change in appropriations is required.

Local Government

Similar to state agencies, any local public entity subject to CORA will have an increase in workload to update information and procedures for record requests. Also, classifying a requester as a vexatious requestor and extending the timeline for certain business requests may reduce workload in some situations.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to requests made after this date.

State and Local Government Contacts

All State and Local Agencies

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).