

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 13-0806

**Date:** July 2, 2013

**Prime Sponsor(s):** Sen. Tochtrop  
Rep. Ryden

**Bill Status:** Signed into Law

**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**TITLE:** CONCERNING THE REGULATION OF HEARING AID PROVIDERS BY THE DIVISION OF PROFESSIONS AND OCCUPATIONS WITHIN THE DEPARTMENT OF REGULATORY AGENCIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

<b>Fiscal Impact Summary</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
<b>State Revenue</b>		
General Fund	<\$5,000	<\$5,000
Cash Funds		
Fines Collection Cash Fund	<\$5,000	<\$5,000
Division of Professions and Occupations Cash Fund	\$42,400*	\$1,000*
<b>State Expenditures</b>		
Cash Funds		
Division of Professions and Occupations Cash Fund	\$22,211	\$16,417
<b>FTE Position Change</b>	0.2 FTE	0.2 FTE
<b>Effective Date:</b> The bill was signed into law by the Governor on June 5, 2013 and took effect July 1, 2013.		
<b>Appropriation Summary for FY 2013-2014:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

\* State revenue from fees exceeds state expenditures in order to pay for costs noted in the Expenditures Not Included section of this fiscal note. License fees for hearing aid providers will be collected beginning in FY 2013-14 to cover costs of the bill in both FY 2013-14 and FY 2014-15.

**Summary of Legislation**

The bill requires hearing aid providers to be licensed by the Division of Professions and Occupations (the division) within the Department of Regulatory Agencies (DORA). Hearing aid providers are persons who engage in the practice of dispensing, fitting, and or dealing in hearing aids. Among other things, the bill:

- defines the scope of practice of hearing aid providers,
- specifies educational background and examination requirements to become licensed;
- establishes an apprentice license status;
- requires the division to adopt necessary rules;

- provides the DORA with the ability to set fees and schedule license renewals; and
- establishes the grounds for disciplinary proceedings, and authorizes the director of the division to take disciplinary actions.

The licensing program is repealed September 1, 2020, following a sunset review.

**Background**

Hearing aid providers have been regulated by Colorado law since 1995. Under current law, regulation and licensing of hearing aid providers will end on July 1, 2013, as the General Assembly did not pass legislation to continue the program in the 2012 legislative session. Therefore, the regulation of hearing aid providers by DORA is currently in the wind-up period prior to repeal of the program. This bill reauthorizes the DORA to license hearing aid providers. In FY 2012-13, the DORA's total estimated cost to administer the program is \$18,240 and 0.2 FTE, which includes both direct and indirect expenses. The program is funded with cash funds from fees paid by hearing aid providers. Fees are set by the DORA to cover the direct and indirect costs of the program.

**State Revenue**

*In FY 2013-14, this bill will increase revenue from fees by an estimated \$42,400. Increased fee revenue in FY 2014-15 is estimated to be \$1,000.* Fees are credited to the Division of Professions and Occupations Cash Fund and are calculated to cover direct and indirect costs in both FY 2013-14 and FY 2014-15.

*Fee impact on hearing aid providers.* Section 2-2-322, C.R.S., requires legislative service agency review of measures that create or increase any fee collected by a state agency. The following fee amounts are estimates only; actual fee calculations are set administratively by the DORA based on the cash fund balance, estimated program costs, and the estimated number of licenses. This fiscal analysis is based on biennial licensure; however, the actual renewal schedule is left to the discretion of the division. Table 1 displays the estimated fee impact of this bill.

<b>Table 1. Fee Impact on Hearing Aid Providers</b>			
<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
Renewal License FY 2013-14	\$360	115	\$41,400
Initial License FY 2013-14	\$100	10	1,000
Initial License FY 2014-15	\$100	10	1,000
<b>FY 2013-14</b>			<b>\$42,400</b>
<b>FY 2014-15</b>			<b>\$1,000</b>
<b>2-YEAR TOTAL</b>			<b>\$43,400</b>

**Fines.** The bill may increase state revenue from fines beginning in FY 2013-14, although less than \$5,000 in new state revenue is expected per year. The bill allows the DORA to impose administrative fines, and criminal penalties imposed by the courts may also increase revenue. According to Section 18-1.3-501, C.R.S., the penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. A hearing aid provider convicted of a deceptive trade practice is guilty of a class 1 misdemeanor, and upon second or subsequent offenses, is guilty of a class 6 felony, although felony convictions are assumed to be rare or nonexistent. Administrative fine revenue is deposited in the General Fund. Fine revenue not otherwise appropriated is deposited in the Fines Collection Cash Fund.

**State Expenditures**

*In FY 2013-14, this bill will result in total costs of \$22,211 and 0.2 FTE from the Division of Professions and Occupations Cash Fund in the DORA. In FY 2014-15, total costs are \$16,173 and 0.2 FTE.* Major cost components are summarized in Table 2.

<b>Table 2. Total Expenditures Under SB 13-238</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Personal Services	\$10,433	\$10,433
FTE	0.2	0.2
Operating Expenses and Capital Outlay	190	190
Legal Services	11,588	5,794
<b>TOTAL</b>	<b>\$21,211</b>	<b>\$16,417</b>

Of these costs, \$16,417 per year and 0.2 FTE represents continuation-level funding for the existing regulation of hearing aid providers that is set to expire on July 1, 2013. The first-year costs include \$5,794 over this continuation-level funding for an additional 75 hours to develop rules for new aspects of the program, primarily for creating an apprentice hearing aid program to replace the existing statuses of trainee and associate hearing aid provider.

**Expenditures Not Included**

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. The centrally appropriated costs subject to this policy are summarized in Table 3.

<b>Table 3. Expenditures Not Included Under SB 13-238*</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$1,343	\$1,343
Supplemental Employee Retirement Payments	640	724
<b>TOTAL</b>	<b>\$1,983</b>	<b>\$2,067</b>

*\*More information is available at: <http://colorado.gov/fiscalnotes>*

### **Local Government Impact**

The penalty for misdemeanors includes fines, imprisonment in a county jail, or both. Because the courts have the discretion of ordering incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver metro-area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$51.45 to house state inmates. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

### **State Appropriations**

In FY 2013-14, the DORA requires an appropriations of \$5,794 from the Division of Professions and Occupations Cash Fund, the entire amount of which should be reappropriated to Department of Law.

The remaining amount of funding necessary to continue the hearing aid provider licensure program cited above (\$16,417 and 0.2 FTE) has been included in the DORA base budget request for the FY 2013-14. No additional appropriation to the DORA is required as long as that funding is included in the 2013 Long Bill.

### **Departments Contacted**

Corrections  
Law

Education  
Regulatory Agencies

Judicial