SB 22-130

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 22-0759	**Date:**	August 24, 2022
Prime Sponsors:	Sen. Rankin; Hansen Rep. McCluskie	**Bill Status:**	Signed into Law
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Bill Topic: **STATE ENTITY AUTHORITY FOR PUBLIC-PRIVATE PARTNERSHIPS**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☒ State Transfer
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

The bill requires the Department of Personnel and Administration to develop and oversee a process by which certain state entities may enter into public-private partnerships. It increases state expenditures beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires and includes an appropriation of $306,634 to the Department of Personnel and Administration. See State Appropriations Section.

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

Table 1
State Fiscal Impacts Under SB 22-130

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	-	$307,748
	Cash Funds	$680,919	$750,049
	Centrally Appropriated	$55,544	$55,544
	Total Expenditures	**$736,463**	**$1,113,341**
	Total FTE	**3.3 FTE**	**3.7 FTE**
Transfers	General Fund	($15.0 million)	-
	Unused State-Owned Real Property Fund	$15.0 million	-
	Net Transfer	**$0**	**-**
Other Budget Impacts	General Fund Reserve		$46,162

Summary of Legislation

Within one year of the bill's effective date, the bill requires the Department of Personnel and Administration (DPA) to develop and oversee a process by which certain state entities may enter into public-private partnerships, and creates a Public-Private Collaboration Unit to, among other tasks, identify and prioritize partnership opportunities, provide technical assistance, and track partnerships. The department must report on the these activities during its annual SMART Act hearing.

The bill allows state public entities to enter into public-private partnerships, with some requirements, and does not impact the existing authority of certain state entities to enter into such partnerships, as applicable. The bill also creates the Public-Private Partnership Subcommittee of the Economic Development Commission to review proposed partnerships that involve state property beginning September 1, 2022.

The bill exempts public-private partnerships from the requirements of the procurement code and modifies the requirements of the Unused State-Owned Real Property Fund by requiring revenue from public-private partnerships to be credited to the fund and allowing DPA to use the fund to pay for the costs of public-private partnerships. The bill makes the fund continuously appropriated to DPA, except that the certain operating expenditures for the Public-Private Collaboration Unit are subject to annual appropriation in FY 2022-23 only, and transfers $15 million to the fund from the General Fund. Operating expenses will be paid from the General Fund in subsequent years.

The bill authorizes the Department of Labor and Employment to dispose of real property in Summit County and credit the proceeds to the Employment Support Fund.

State Revenue

Development of new public-private partnerships could, depending on the nature of projects, increase revenue to state agencies or create new funding sources for use during project development. This potential revenue, which accrues to the Unused State-Owned Real Property Fund and may be subject to TABOR, has not been estimated.

The disposition of real property will increase revenue to the Employment Support Fund. This revenue depends on future terms of sale and has not been estimated.

State Transfer

On July 1, 2022, the bill requires a transfer of $15.0 million from the General Fund to the Unused State-Owned Real Property Fund.

State Expenditures

The bill increases state expenditures in multiple state agencies, primarily DPA, by $0.7 million in FY 2022-23 and $1.1 million in FY 2023-24 and future years, paid mainly from the Unused State-Owned Real Property Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 22-130

Cost Components		FY 2022-23	FY 2023-24
Department of Personnel and Administration			
Personal Services		$283,984	$283,984
Operating Expenses		$4,050	$4,050
Capital Outlay Costs		$18,600	-
Property Evaluation		$322,500	$645,000
Marketing Costs		$2,500	$5,000
Legal Services		$49,285	$100,049
Centrally Appropriated Costs[1]		$55,544	$55,544
FTE – Personal Services		3.0 FTE	3.0 FTE
FTE – Legal Services		0.3 FTE	0.6 FTE
DPA Subtotal		**$736,463**	**$1,093,627**
Department of Law			
Legal Services		-	$19,714
FTE – Legal Services		-	0.1 FTE
Law Subtotal		**-**	**$19,714**
	Total	**$736,463**	**$1,113,341**
	Total FTE	**3.3 FTE**	**3.7 FTE**

[1] *Centrally appropriated costs are not included in the bill's appropriation.*

Assumptions. The expenditures in Table 2 represent the costs associated with facilitating two to three new public-private partnerships per year. The fiscal note assumes that personal services costs begin July 1, 2022 to establish the program, and programmatic expenditures begin January 1, 2023. Some expenditures may be delayed depending on how long it takes to set up the program; the bill requires full implementation with one year. Furthermore, actual expenditures will depend on the number of partnerships pursued by state entities under the program, and may differ from the estimates here.

Department of Personnel and Administration. Beginning in FY 2022-23, DPA will create a Public-Private Collaboration Unit to create processes for evaluating and approving partnerships, and to provide advice and technical support to state agencies pursing partnerships under the bill.

- **Staffing.** DPA requires 3.0 FTE in program management and real estate development staff to establish program requirement in FY 2022-23. Once fully implemented, the staff will work with stakeholders, manage contracts, conduct due diligence, and review appraisals. Standard operating and capital outlay costs are included.

- **Property evaluation and marketing.** Exact costs to evaluate state property and assets for use in a partnership will vary depending upon the number and types of projects identified. Preliminarily, as a baseline, it is estimated that $350,000 is required for environmental assessments; $250,000 for real estate consultants; $30,000 for surveying and platting; and $15,000 for property appraisals. Additional resources are required for marketing the new office ($5,000).

- **Legal services.** DPA requires an estimated 1,015 hours of legal services annually to support the office's implementation and ongoing administration. This equates to 0.6 FTE for legal services staff in the Department of Law, paid at the standard rate of $98.57 per hour.

Department of Law. Besides DPA, other state agencies will require additional legal services to the extent that they engage in public-private partnerships under the bill. The fiscal note estimates 200 hours of legal services annually starting in FY 2023-24, to be divided between state agencies as needed, which equates to 0.1 FTE.

Office of Economic Development and International Trade. The bill increases workload in the office to support the new subcommittee, which reviews proposed public-private partnerships. This workload can be accomplished within existing appropriations.

State agencies. The bill may impact the revenue or expenditures of state agencies that enter into public-private partnerships. These impacts, which depend on the terms of their contracts, are indeterminate and the fiscal note does not estimate them.

Centrally appropriated costs. 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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts in Table 1, which will decrease the amount of General Fund available for other purposes.

Effective Date

The bill was signed into law by the Governor on May 26, 2022, and it took effect on August 9, 2022.

State Appropriations

The Unused State-Owned Real Property Fund is continuously appropriated to the Department of Personnel and Administration, except that personal services and standard operating costs are subject to annual appropriation in FY 2022-23.

For FY 2022-23, the bill requires and includes an appropriation from the Unused State-Owned Real Property Fund of $306,634 to the Department of Personnel and Administration, and 3.0 FTE. In addition, $49,285 is reappropriated from the fund to the Department of Law with an additional 0.3 FTE.

State and Local Government Contacts

Economic Development and International Trade
Law
Information Technology
Personnel