



**Colorado
Legislative
Council
Staff**

HB16-1107

FISCAL NOTE

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

Drafting Number: LLS 16-0043

Date: February 5, 2016

Prime Sponsor(s): Rep. Joshi

Bill Status: House SVMA

Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: DORA ADMINISTRATIVE COMPLAINT STATUTE OF LIMITATIONS

| Fiscal Impact Summary | FY 2016-2017 | FY 2017-2018 |
|--|-------------------------|-------------------------|
| State Revenue | <u>\$175,000</u> | <u>\$175,000</u> |
| Cash Funds | 175,000 | 175,000 |
| State Expenditures | <u>\$175,000</u> | <u>\$175,000</u> |
| Cash Funds | \$175,000 | \$175,000 |
| TABOR Impact | \$175,000 | \$175,000 |
| FTE Position Change | 1.5 FTE | 1.5 FTE |
| Appropriation Required: \$175,000 - Department of Regulatory Agencies (FY 2016-17). | | |
| Future Year Impacts: Ongoing increase in state expenditures. | | |

Summary of Legislation

The bill requires an individual to file a complaint against a licensed professional with the Division of Professions and Occupations (division) in the Department of Regulatory Agencies (DORA) within seven years of an alleged act or failure to act. It also requires the division to make a motion or begin an investigation within seven years of an alleged act. If the claim involves a person under 18, the complaint must be filed, or the investigation begun, within seven years after the person's 18th birthday. The division must render a final decision within two years of the motion, investigation, or complaint.

Background

DORA regulates over 750,000 licensed professionals and businesses. The division, which accounts for the bulk of this regulation, receives approximately 5,000 complaints per year. Of these, approximately 39 percent are dismissed, 28 percent are issued letters of concern, 7 percent are given letters of admonition, 7 percent are given cease-and-desist/citation/confidential practice restrictions, 15 percent are given outright practice restrictions, and in 4 percent of cases, licenses are either suspended or revoked.

State Revenue

This bill will likely require an increase in fee revenue to DORA to cover the costs of the bill. This cash fund revenue will be from fees paid by regulated professionals and deposited in the Division of Professions and Occupation's Cash Fund. Fees are set by DORA. The fee increase for any given profession has not been estimated for the fiscal note.

TABOR Impact

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

The bill will increase cash fund expenditures in DORA by \$175,000 and 1.5 FTE in both FY 2016-17 and in FY 2017-18.

Costs increase for DORA to expedite the final decision timeframe. Complaints that lead to disciplinary matters not resolved or settled with the professional licensing board are referred to an administrative law judge (ALJ) for hearing in the Department of Personnel and Administration (DPA)'s Office of Administrative Courts. Each matter referred for hearing carries ALJ costs and legal costs. If not settled at any point in time outside the ALJ process, the ALJ recommended decisions are then considered by the licensing authority, an initial decision is issued, and then a final decision is issued after a period of time for parties to file "exceptions".

The ALJ process can take more than two years. Generally, the first phase is spent on investigations, and if applicable, efforts to expedite a settlement. Then, it generally takes six months to one year for the Office of the Attorney General to draft charges and an ALJ hearing to be scheduled. Once the hearing is scheduled, it can take several more months for the proceeding, referral back to the licensing authority for initial decision, and then several weeks further for consideration of exceptions.

At the conclusion of any given fiscal year, DORA has as many as 200-300 cases pending hearing, and sometimes closer to 400-500. Of these, it is likely that 100 cases or more will be older than two years by the time of agency final action. DORA requires \$175,000, a 50 percent increase in its ALJ services budget, in order to reduce the timeframe in which a final decision is issued to under two years. This is estimated to require an addition of 1.5 FTE in the Department of Personnel and Administration for administrative law judges.

The bill will also increase workload in the division, as staff work to expedite investigations, hearings, and the final decision process.

State Appropriations

For 2016-17, this bill requires an appropriation of \$175,000 to the Department of Regulatory Agencies from the Division of Professions and Occupations Cash Fund. This amount and 1.5 FTE are reappropriated to the DPA for ALJ services.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Information Technology

Regulatory Agencies