



**Colorado
Legislative
Council
Staff**

HB16-1160

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 16-0429
Prime Sponsor(s): Rep. Ginal; Lontine
Sen. Tate

Date: August 30, 2016
Bill Status: Signed into Law
Fiscal Analyst: Bill Zepernick (303-866-4777)

BILL TOPIC: SUNSET SURGICAL ASSISTANTS SURGICAL TECHNICIANS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018	
This bill continues and modifies a program that would otherwise end September 1, 2016, so the fiscal note shows both new and continuing fiscal impacts.	New	New	Continuation
State Revenue	\$148,500	\$154,620	
Cash Funds	148,500	54,620	100,000
State Expenditures	\$157,579	\$130,839	
Cash Funds	146,530	44,184	82,626
Centrally Appropriated Costs	11,049	4,029	0
TABOR Impact	\$0	\$144,960	
FTE Position Change	1.0 FTE	0.4 FTE	0.3 FTE
Appropriation Required: \$121,046 - Multiple agencies (FY 2016-17).			
Future Year Impacts: Ongoing state revenue and expenditure increase.			

Summary of Legislation

The bill continues the regulation of surgical assistants and surgical technologists until September 1, 2021. These health professions are regulated by the Division of Professions and Occupations in the Department of Regulatory Affairs (DORA). The bill also requires that surgical assistants and technologists have a fingerprint-based background check prior to being registered. Employers of surgical assistants and technicians must report positive drug tests involving these employees to DORA.

Background

Surgical assistants and surgical technologists have been regulated in Colorado since April 1, 2011. To practice in Colorado, professionals in these fields must register with DORA. There are approximately 3,000 surgical assistants and technicians registered in Colorado. Surgical assistants and surgical technologists must renew their registrations annually.

Fiscal Impact of Programs Set to Expire

This bill continues a program in DORA that is set to repeal effective September 1, 2016. Under current law, state agencies may be appropriated funds to wind up the affairs of an expiring program for 12 months following the repeal date. To account for the wind-up period, the impact of extending the program beyond the current repeal date is shown as beginning in FY 2017-18, one year after the repeal date. There is no need for an appropriation of the program's base funding of \$99,151 and 0.3 FTE in FY 2016-17, since the program's authorization has not yet expired and ongoing funding for the program is included in the department's base budget request for the year.

The continuing state revenue and state expenditures impact for FY 2017-18 reflects the program's anticipated fee revenue and expenditures for that year. Based on prior year spending data and accounting for the September 1 repeal date for the program, continuation costs are expected to be \$82,626 and 0.3 FTE in FY 2017-18. Current fee revenue to the program of \$100,000 per year will also continue under the bill.

Assumptions

The fiscal note makes the following assumptions:

- 3,000 surgical assistants and technicians will register or renew their registration in FY 2016-17;
- 3,250 surgical assistants and technicians will register or renew their registration in FY 2017-18, which will include 560 new registrations and reinstatements of expired registrations and 2,690 renewals.

State Revenue

In addition to the revenue impact from continuing the program discussed above (\$100,000 per year beginning in FY 2017-18), the bill also increases cash fund revenue from fees by **\$148,500 in FY 2016-17 and \$54,620 in FY 2017-18 and future years**. This revenue is from fees paid for background checks in the Department of Public Safety (DPS) and the anticipated fee increase to cover new costs in DORA. These fee impacts are discussed below and summarized in Table 1.

Background checks (DPS). Based on the assumed number of registrations, it is estimated that 3,000 background checks will be conducted in FY 2016-17 during the next annual renewal period for surgical assistants and technicians. For FY 2017-18 and future years, it is assumed that only new registrations and reinstatements of registration will require a background check, resulting in 560 background checks per year. The current fee for a fingerprint-based background check is \$39.50, of which \$22.25 goes to the DPS and \$17.25 goes to the federal government. Therefore, the bill increase revenue to the CBI identification Unit Cash Fund by \$118,500 in FY 2016-17, of which \$51,750 is passed through to the federal government. In FY 2017-18, the DPS will receive \$22,120 in background check revenue, of which \$9,660 is passed through to the federal government.

Registration fees (DORA). Based on new costs in DORA described in the State Expenditures section, it is estimated that registration fees for surgical assistants and technicians will increase by \$10 per year. Assuming 3,000 renewals and new applicants in FY 2016-17 and 3,250 in FY 2017-18, fee revenue to the Division of Professions and Occupations Cash Fund in DORA will increase by \$30,000 in FY 2016-17 and \$32,500 in FY 2017-18.

Fee impact on surgical assistants and technicians. State law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 below identifies the fee impact of this bill. These fees are for new costs under the bill, and do not reflect the continuation of existing fees from extending the sunset date of the program. The projected registration fee increase in this fiscal note is an estimate only; actual fees will be set by DORA and adjusted based on the actual number of applications and costs incurred.

Table 1. Fee Impact on Surgical Assistants and Technicians					
Type of Fee	Current Fee	Estimated Fee	Fee Change	Number Affected	Total Fee Impact
FY 2016-17					
Surgical Assistant/Technician Registration	\$45	\$55	\$10	3,000	\$30,000
CBI/FBI Background Check Fee	N/A	39.50	39.50	3,000	118,500
FY 2016-17 Total					\$148,500
FY 2017-18					
Surgical Assistant/Technician Registration	\$45	\$55	\$10	3,250	\$32,500
CBI/FBI Background Check Fee	N/A	39.50	39.50	560	22,120
FY 2017-18 Total					\$54,620

TABOR Impact

This bill increases state cash fund revenue from fees, which will increase the amount of money required to be refunded under TABOR beginning in FY 2017-18. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. Revenue passed through to the federal government for FBI background checks are exempt from TABOR and have been excluded from the TABOR impact calculation for this bill. A TABOR refund is not projected for FY 2016-17.

State Expenditure

In addition to the costs of continuing the program discussed above (\$99,151 and 0.3 FTE per year, prorated to \$82,626 in FY 2017-18), the bill results in additional costs of **\$131,474 and 1.0 FTE in FY 2016-17 and \$69,544 and 0.4 FTE in FY 2017-18**. These costs are for the DPS to conduct background checks on surgical assistants and technicians and for DORA to receive, investigate, and take disciplinary action concerning the results of criminal history background checks and employer drug tests. These costs are summarized in Table 2 and discussed below.

Table 2. Expenditures Under HB 16-1160		
Cost Components	FY 2016-17	FY 2017-18
<u>Department of Public Safety</u>	<u>\$121,556</u>	<u>\$21,619</u>
Personal Services	29,835	5,555
FTE	0.6 FTE	0.1 FTE
Operating Expenses and Capital Outlay Costs	5,273	0
Postage, Software, and Database Costs	27,330	5,102
FBI Background Check Pass Through	51,750	9,660
Centrally Appropriated Costs*	7,368	1,302
<u>Department of Regulatory Agencies</u>	<u>\$36,023</u>	<u>\$26,594</u>
Personal Services	17,140	12,466
FTE	0.3 FTE	0.2 FTE
Legal Services**	15,202	11,401
Centrally Appropriated Costs*	3,681	2,727
TOTAL	\$157,579	\$48,213

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

** The Department of Law requires an additional 0.1 FTE per year to provide these legal services.

Background checks (DPS). It is estimated that the DPS will need to conduct 3,000 background checks in FY 2016-17 and 560 in FY 2017-18. This will increase cash fund expenditures in the DPS by \$121,556 and 0.6 FTE in FY 2016-17 and \$21,619 and 0.1 FTE in FY 2017-18, paid from the CBI Identification Unit Cash Fund. Of the total costs, \$51,750 in FY 2016-17 and \$9,660 in FY 2017-18 will be passed through to the federal government to pay for FBI background checks.

Investigation and disciplinary costs (DORA). DORA will have costs of \$36,023 and 0.3 FTE in FY 2016-17 and \$26,594 and 0.2 FTE in FY 2017-18 and future years to receive information from background checks and employer drug testing, investigate potential areas of concern, and take disciplinary action against surgical assistants and technicians. It is expected that two cases in FY 2016-17 will be referred to the Attorney General for adjudication, which will require 160 hours of legal services at a rate of \$95.01 per hour. In FY 2017-18 and beyond, DORA will receive fewer reports concerning the criminal history of surgical assistants and technicians after the initial wave of background checks has been conducted. However, reports concerning employer drug tests and background checks on new registrants will continue in future years, which will generate one or two per year that will be referred to the Attorney General, requiring at least 120 hours of legal services.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under HB 16-1160		
Cost Components	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$7,029	\$2,414
Supplemental Employee Retirement Payments	4,020	1,615
TOTAL	\$11,049	\$4,029

Effective Date

The bill was signed into law by the Governor on June 10, 2016, and it became effective on August 10, 2016.

State Appropriations

Consistent with this fiscal note, the bill requires the following appropriations for FY 2016-17:

- \$114,188 to the Department of Public Safety from the CBI identification Unit Cash Fund and an allocation of 0.6 FTE. Of this amount, \$51,750 is passed through to the federal government for FBI background checks.
- \$32,342 to the Department of Regulatory Agencies from the Division of Professions and Occupations Cash Fund and an allocation of 0.3 FTE. Of this amount, \$15,202 is reappropriated to the Department of Law for legal services with an additional allocation of 0.1 FTE.

State and Local Government Contacts

Law Public Safety Regulatory Agencies