



**Colorado
Legislative
Council
Staff**

HB17-1112

FISCAL NOTE

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

Drafting Number: LLS 17-0590
Prime Sponsor(s): Rep. Van Winkle

Date: February 9, 2017
Bill Status: House Judiciary
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: IMMUNITY UNAUTHORIZED PRACTICE OF PROFESSION

| Fiscal Impact Summary | FY 2017-2018 | FY 2018-2019 |
|--|---|------------------------|
| State Revenue | Potential decrease. See State Revenue section. | |
| General Fund | | |
| Cash Funds | | |
| State Expenditures | <u>\$62,555</u> | <u>\$32,030</u> |
| Cash Funds | 56,641 | 25,732 |
| Centrally Appropriated Costs | 5,914 | 6,298 |
| TABOR Impact | Potential decrease. | |
| FTE Position Change | 0.5 FTE | 0.5 FTE |
| Appropriation Required: \$56,641 - Department of Regulatory Agencies (FY 2017-18). | | |
| Future Year Impacts: Ongoing potential state revenue decrease and expenditure increase. | | |

Summary of Legislation

The bill provides immunity from civil and administrative penalties for individuals who make voluntary disclosures of the unauthorized practice of their profession to the Department of Regulatory Agencies (DORA) under certain circumstances. Immunity is provided if the individual:

- initiates contact with DORA;
- makes the disclosure in an attempt to determine whether a particular act constitutes the unauthorized practice of a profession;
- has not previously been found to have engaged in the unauthorized practice of a profession
- is licensed, registered, or otherwise authorized to practice a DORA-regulated profession; and
- is authorized to practice in a field related to the unauthorized practice.

Background

DORA is the primary regulatory authority for most professions and occupations in Colorado. Certain professions are also regulated by the Departments of Agriculture, Law, Natural Resources, Public Health and Environment, Revenue, and State; but these are not subject to the bill.

State Revenue

State General Fund revenue and cash fund revenue to DORA's divisions may potentially decrease from court and administrative fines that are no longer collected from unauthorized professionals as a result of this bill. Because there is no data available correlating fines to voluntary disclosures of unauthorized practice, this revenue decrease cannot be determined. As a point of reference, approximately \$1.8 million in court and administrative fines was collected in FY 2015-16 as a result of penalties under DORA's practice acts; \$1.5 million of which was credited to the General Fund, and the remainder credited primarily to the Division of Real Estate Cash Fund.

TABOR Impact

This bill may reduce state General Fund and cash fund revenue from fines, which will reduce the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. In years when the state collects revenue above the TABOR limit, the reduction in General Fund revenue has no net impact on the amount of money available in the General Fund for the budget, as both revenue to the General Fund and the refund obligation decrease by equal amounts. However, the reduction in cash fund revenue reduces the TABOR refund obligation, increasing the amount of money available in the General Fund for the budget on a dollar-for-dollar basis. In future years when the state does not collect revenue above the TABOR limit, the bill's impact on General Fund revenue will decrease money available for the General Fund budget.

State Expenditures

The bill will increase state cash fund expenditures by \$62,555 in FY 2017-18 and \$32,030 in FY 2018-19 from multiple cash funds in DORA. Expenditures are shown in Table 1 and discussed below.

| Table 1. Expenditures Under HB17-1112 | | |
|--|-------------------|-------------------|
| Cost Components | FY 2017-18 | FY 2018-19 |
| Personal Services | \$21,047 | \$25,257 |
| FTE | 0.5 FTE | 0.5 FTE |
| Operating Expenses and Capital Outlay Costs | 5,178 | 475 |
| Legal Services | 30,416 | |
| Centrally Appropriated Costs* | 5,914 | 6,298 |
| TOTAL | \$62,555 | \$32,030 |

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

Department of Regulatory Agencies. Under the bill, DORA will require the addition of 0.5 FTE to handle inquiries under the bill beginning in September of FY 2017-18, and one-time legal services in FY 2017-18. Expenditures under the bill will be divided between four cash funds: the Division of Insurance Cash Fund, the Division of Real Estate Cash Fund, the Division of Professions and Occupations Cash Fund, and the Division of Securities Cash Fund.

Personal services. The fiscal note assumes that 1 licensee out of every 200 will contact DORA to either self-report or inquire about the law. Assuming 15 minutes per contact and 800,000 active licensees, 1,000 hours of work is created that requires a 0.5 FTE of a Technician IV. The personal services cost has been prorated to 10 months, assuming a September start date.

Legal services. In FY 2017-18 only, DORA requires general legal counsel to clarify the applicability, protocol, and documentation for granting the immunity outlined in the bill. The fiscal note estimates that this counsel will require 320 legal services at the rate of \$95.05 per hour. If additional legal services or rulemaking become required under the bill, the fiscal note assumes this will be addressed during the annual budget process.

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 2.

| Cost Components | FY 2017-18 | FY 2018-19 |
|--|-------------------|-------------------|
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$4,028 | \$4,035 |
| Supplemental Employee Retirement Payments | 1,886 | 2,263 |
| TOTAL | \$5,914 | \$6,298 |

Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed. It applies to disclosures made on or after this date.

State Appropriations

For FY 2017-18, the bill requires a cash fund appropriation of \$56,641 from various cash funds (the Division of Insurance Cash Fund, the Division of Real Estate Cash Fund, the Division of Professions and Occupations Cash Fund, and the Division of Securities Cash Fund) to the Department of Regulatory Agencies and an allocation of 0.5 FTE.

State and Local Government Contacts

Law Regulatory Agencies