



**Colorado  
Legislative  
Council  
Staff**

**HB17-1132**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated February 8, 2017)

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

**Drafting Number:** LLS 17-0669  
**Prime Sponsor(s):** Rep. Lundeen  
Sen. Gardner

**Date:** April 27, 2017  
**Bill Status:** Senate Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** JUDICIAL DISQUALIFICATION IN CIVIL ACTIONS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
<b>State Revenue</b>		
Cash Funds	Potential minimal increase.	
<b>State Expenditures</b>	Potential minimal workload increase.	
<b>TABOR Impact</b>	Potential minimal increase.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Potential ongoing minimal workload increase.		

**Summary of Legislation**

This *reengrossed* bill codifies the right to file a motion to disqualify a judge for a party to a civil action in a district court, including the juvenile and probate courts in Denver, or a county court.

The motion must be supported by an affidavit stating facts establishing one or more of the grounds for disqualification under Colorado Rules of Civil Procedure's Rule 97 or Rule 397 of the Colorado Rules of County Court Civil Procedure and be filed within 21 days of the assignment or reassignment of the action to the judge or the appearance of a party which gives rise to the alleged basis for disqualification of the assigned judge. A motion may not be filed later than 91 days prior to trial of the action and a party to an action may only file one motion to disqualify a judge under the new law.

The timely filing of a motion to disqualify a judge stays further proceedings until the motion is ruled upon. A judge is required to issue a written and signed order ruling on the motion in a timely manner, but no later than 63 days after the motion is filed. When a written order granting the motion is filed, the case must be reassigned within seven days.

If a motion to disqualify a judge is denied, the moving party is entitled to interlocutory review by filing a petition for review. A motion for a district court judge must be filed in the Court of Appeals; a motion for a county court judge must be filed in the district court. Any such petitions must be filed within seven days of the denial and do not stay any proceeding in the trial court or the running of any applicable time limit. Petitions are to be reviewed on an expedited basis and the Supreme Court is directed to promulgate rules regarding the interlocutory review of petitions.

## State Revenue

Beginning in FY 2017-18, this bill may increase state cash fund revenue in the Judicial Department by a minimal amount. Any revenue increase is dependent on a party filing a motion with the court to reconsider a motion to disqualify a judge. The filing fee for a petition heard in a district court is \$163; the fee for the Court of Appeals is \$223. The fiscal note assumes any revenue increase is minimal.

## TABOR Impact

This bill may increase state cash fund revenue from court filing fees, which will increase 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. 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.

## State Expenditures

To the extent that creating a new basis for judicial disqualification and shortened time frames for filing such motions lead to more requests, this bill may increase workload in the Judicial Department beginning in FY 2017-18. Workload is also increased to respond to any petitions for review of denied motions to disqualify a judge and for the Supreme Court to promulgate rules. These increases are minimal and will not require an adjustment in appropriations for the Judicial Department.

## Local Government Impact

Similar to the state, the bill may result in increased motions to disqualify a judge in the Denver County Court or a municipal court and workload for district attorneys to respond to any such motions. These impacts are assumed to be minimal.

## Effective Date

The bill takes effect July 1, 2017, and applies to motions filed on or after this date.

## State and Local Government Contacts

District Attorneys      Information Technology      Judicial