



**Colorado  
Legislative  
Council  
Staff**

**HB16-1235**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated February 22, 2016)

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

**Drafting Number:** LLS 16-0865 **Date:** April 5, 2016  
**Prime Sponsor(s):** Rep. Van Winkle **Bill Status:** House SVMA  
 Sen. Kefalas; Lundberg **Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** COMMISSIONS EVALUATING STATE JUDICIAL PERFORMANCE

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b>	See State Revenue section.	
<b>State Expenditures</b>	<b>\$146,768</b>	<b>\$145,328</b>
General Fund	136,082	134,252
Centrally Appropriated Costs	10,686	11,076
<b>FTE Position Change</b>	0.9 FTE	1.0 FTE
<b>Appropriation Required:</b> \$136,082 - Judicial Department (FY 2016-17).		
<b>Future Year Impacts:</b> Ongoing increase in state expenditures.		

**Summary of Legislation**

This bill changes the duties and composition of the state and district commissions on judicial performance. Staff of the state commission may not serve in any other position related to the courts or where supervised by or working alongside a judge. One representative from each district commission must serve on the state commission, with odd-numbered judicial districts appointing a nonattorney member and even-numbered districts appointing an attorney. The bill reduces the term of membership from four to two years and modifies rules for filling vacancies. It limits the state commission's rulemaking authority by prohibiting rules that make judicial performance evaluations less transparent, effective, or comprehensive. The bill also repeals the June 30, 2019, sunset of the commissions on judicial performance.

**District commissions.** Administrators and staff of district commissions must perform judicial evaluations in a different judicial district and may not serve as performance commission staff for the district in which they currently work. The bill requires district commissions to hold at least one public meeting annually to encourage feedback on judicial performance and to review at least five written opinions or orders of judges being evaluated. The bill specifies that open meetings law applies to all meetings of the state and district commissions, that each commission is a "state public body," and that justices and judges are elected officials.

**Office of Judicial Performance Evaluation.** The bill expands the Office of Judicial Performance Evaluation's data collection duties to include judges' and justices': public financial disclosures; independent credit reports; criminal history; driving history; reports, comments or

complaints concerning a justice or judge; and completed performance evaluations. Staff must investigate and verify all public financial disclosures collected for judges and justices. The state commission must disseminate the data to all commissioners that evaluate a justice or judge.

**Judicial performance criteria.** The bill modifies judicial performance criteria and rules for performance evaluations in retention election years and interim performance evaluations. The state and district commissions must hold a public hearing where individuals can provide confidential feedback regarding any judge or justice subject to a retention year evaluation. The state commission must conduct an interim evaluation of each justice and judge every two years, and the district commission must hold a public hearing concerning all district and county court judges being evaluated. Interim evaluation results must be released to the public upon completion. All judicial performance evaluations must be made public.

**Judicial Performance Cash Fund.** Under the bill, the state commission is no longer authorized to accept private grants. The bill requires that fees and cost recoveries from electronic filings, searches of court databases, and any other information technology services must be deposited into the State Commission on Judicial Performance Cash Fund. The state commission must report annually on its website a complete accounting of the expenses, fees, and cost recoveries, as well as all revenue provided to the fund from federal grants or the General Assembly. The bill specifies that any costs related to the needs of the commissions on judicial performance may be paid from the Judicial Department Information Technology Cash Fund.

### **State Revenue**

The bill removes the state commission's authority to accept private grants, which may reduce state revenue. The state commission has not accepted any private grants to date, so this provision is expected to have a minimal impact, if any, on state revenue.

### **State Expenditures**

**This bill increases state General Fund expenditures in the Judicial Department by \$146,768 and 0.9 FTE in FY 2016-17 and by \$145,328 and 1.0 FTE in FY 2017-18.** These costs are shown in Table 1 and explained below.

<b>Table 1. Expenditures Under HB16-1235</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Personal Services	\$31,611	\$34,484
FTE	0.9 FTE	1.0 FTE
Operating Expenses and Capital Outlay Costs	5,653	950
Data Collection Costs	6,172	6,172
Survey Costs	92,646	92,646
Centrally Appropriated Costs*	10,686	11,076
<b>TOTAL</b>	<b>\$146,768</b>	<b>\$145,328</b>

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

**Judicial Department, Office of Judicial Performance Evaluation.** The office requires 1.0 FTE and \$146,768 in FY 2016-17 to complete the data collection and reporting duties outlined by the bill. The fiscal note assumes a July 1, 2016, effective date, and first year salary and FTE are prorated to account for the General Fund pay date shift. The bill requires the office to collect detailed information about all 341 judges and justices annually, as specified above. Data collection costs include \$6.85 for each criminal history report obtained from the Colorado Bureau of Investigation's public website and \$11.25 for each independent credit report. The bill also requires that the state commission conduct an interim evaluation of all judges every other year, which requires the office to conduct surveys of all judges every other year. Although the office has resources to conduct some surveys each year, the additional surveys required under the bill will cost approximately \$92,646 per year.

The bill specifies that costs related to judicial performance evaluations may be paid by the Judicial Department's Information Technology Cash Fund. As no cash funds are available for judicial performance evaluations, a General Fund appropriation of \$136,082 to the Judicial Department is required to cover the costs in the Office of Judicial Performance Evaluation.

**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.

<b>Table 2. Centrally Appropriated Costs Under HB16-1235</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$7,981	\$7,986
Supplemental Employee Retirement Payments	2,705	3,090
<b>TOTAL</b>	<b>\$10,686</b>	<b>\$11,076</b>

**Technical Note**

The bill directs that fees and cost recoveries for electronic filings, network access and searches of court databases, electronic searches of court records, and any other information technology services performed be deposited in the Judicial Performance Cash Fund. This provision seems to be in conflict with a different provision of statute that directs those same fees and cost recoveries to the Judicial Department Information Technology Cash Fund. It is unclear to which cash fund fees and cost recoveries would go.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

**State Appropriations**

For FY 2016-17, this bill requires a General Fund appropriation of \$136,082 and an allocation of 0.9 FTE to the Judicial Department.

**State and Local Government Contacts**

Judicial