



**Colorado  
Legislative  
Council  
Staff**

**SB16-152**

**FISCAL NOTE**

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

**Drafting Number:** LLS 16-0652  
**Prime Sponsor(s):** Sen. Aguilar  
Rep. Lontine

**Date:** March 15, 2016  
**Bill Status:** Senate SVMA  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** CHANGES AND NOTICES FOR HEALTH CARE SERVICES

<b>Fiscal Impact Summary</b>	<b>FY 2016-17</b>	<b>FY 2017-2018</b>
<b>State Revenue</b>	<b><u>Potential increase.</u></b>	<b><u>Potential increase.</u></b>
<i>Revenue Change</i>		
Cash Funds - Fines	Potential increase.	Potential increase.
<i>State Diversions</i>		
General Fund	(18,066)	(18,127)
Cash Funds	18,066	18,127
<b>State Expenditures</b>	<b><u>\$18,066</u></b>	<b><u>\$18,127</u></b>
Cash Funds	15,154	15,154
Centrally Appropriated Costs	2,912	2,973
<b>FTE Position Change</b>	0.2 FTE	0.2 FTE
<b>Appropriation Required:</b> \$15,154 - Department of Regulatory Agencies (FY 2016-17).		
<b>Future Year Impacts:</b> Ongoing state expenditures and potential revenue increase. Ongoing state diversion.		

**Summary of Legislation**

The bill places requirements on health care providers, facilities, and insurance carriers concerning health care billing and the use of the out-of-network providers for a person covered by an insurance policy. Specifically, the bill requires that:

- in-network health facilities provide a covered person with a written disclosure concerning charges for out-of-network services whenever such facilities schedule a procedure or seek prior authorization from a carrier for non-emergency services;
- out-of-network facility-based health care providers include specific notices regarding charges in plain language on billing notices sent to a covered person; and
- health insurance carriers provide a notice in plain language to a covered person when preauthorization is provided for services at an in-network facility that states that services may be provided by out-of-network providers and outlines requirements for cost-sharing, the ability for the carrier to locate in-network providers, and protections against balance billing.

Any health care provider, facility, or insurance carrier that fails to comply with these requirements commits a deceptive trade practice. The bill also requires health insurance carriers to submit certain information to the Division of Insurance (DOI) in the Department of Regulatory Agencies (DORA) concerning the use and payment of out-of-network providers. The DOI is required to submit a report summarizing the information collected to the relevant committees of the General Assembly on or before February 1, 2018, and once per year for three years thereafter.

### **State Revenue**

On the whole, the bill may result in a net increase in revenue from fines beginning in FY 2016-17. It also creates a diversion of General Fund. These revenue impacts are described below.

**Fines.** To the extent that health care providers and facilities do not follow the requirements of the bill and the Attorney General or district attorneys pursue actions related to this deceptive trade practice, fine revenue to the General Fund may increase beginning in FY 2016-17. Initial fines for violations are up to \$2,000 per violation, up to a maximum \$500,000 for a related series of violations. Additional fines may be levied for violations of a court order or injunction related to the deceptive trade practice. The fiscal note generally assumes a high level of compliance and any fine revenue is assumed to be minimal.

**State diversions.** This bill diverts \$18,066 from the General Fund in FY 2016-17 and \$18,127 in FY 2018-19. This revenue diversion occurs because the bill increases costs in the DOI in DORA, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

### **TABOR Impact**

This bill may increase state revenue from fines, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

### **State Expenditures**

The bill costs in DORA by **\$18,066 and 0.2 FTE in FY 2016-17 and \$18,127 and 0.2 FTE in FY 2017-18**. The bill also increase workload in the Department of Law. These impacts are summarized in Table 1 and described below.

<b>Table 1. Expenditures in DORA Under SB 16-152</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Personal Services	\$15,154	\$15,154
FTE	0.2 FTE	0.2 FTE
Centrally Appropriated Costs*	2,912	2,973
<b>TOTAL</b>	<b>\$18,066</b>	<b>\$18,127</b>

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

**Department of Regulatory Agencies.** The DOI and the Division of Professions and Occupations in the DORA will have to update rules and procedures and notify insurers and health care providers, respectively, about the changes under the bill. The DOI is also required to receive information from insurance carriers and compile a report to the General Assembly. This work is expected to require 0.2 FTE per year, resulting in personal service costs of \$15,154 per year beginning in FY 2016-17.

**Department of Law.** Given the large number of health care providers and transactions in the state, the Department of Law will likely receive complaints about health care providers violating the provisions of the bill beginning in FY 2016-17. This will result in investigations, hearings, actions for injunctive relief, levying of fines, and other actions under the Colorado Consumer Protection Act. The fiscal note assumes that this work will be prioritized by the Department of Law and conducted within existing appropriations. To the extent that a large number of complaints occur and additional resources are required, it is assumed this will be addressed through 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.

<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$1,615	\$1,615
Supplemental Employee Retirement Payments	1,297	1,358
<b>TOTAL</b>	<b>\$2,912</b>	<b>\$2,973</b>

\*More information is available at: <http://colorado.gov/fiscalnotes>.

### **Local Government Impact**

Similar to the impact to the Department of Law discussed above, district attorneys may also be required to receive and investigate complaints concerning the deceptive trade practice created by this bill. It is assumed this work will be done within existing resources.

### **State Appropriations**

For FY 2016-17, the bill requires an appropriation of \$15,154 to DORA from the Division of Insurance Cash Fund and an allocation of 0.2 FTE.

### **Effective Date**

The bill takes effect January 1, 2017, assuming no referendum petition is filed.

**State and Local Government Contacts**

Judicial      Law      Regulatory Agencies