



**Colorado  
Legislative  
Council  
Staff**

**SB17-133**

**FINAL  
FISCAL NOTE**

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

**Drafting Number:** LLS 17-0866  
**Prime Sponsor(s):** Sen. Tate  
Rep. Young

**Date:** May 25, 2017  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** INSURANCE COMMISSIONER INVESTIGATION PROVIDER COMPLAINTS

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	<b><u>Less than \$20,000</u></b>	<b><u>Less than \$20,000</u></b>
<i>Revenue Change</i>		
General Fund	Less than 20,000	Less than 20,000
<i>State Diversion</i>		
General Fund	(44,082)	(49,415)
Cash Funds	44,082	49,415
<b>State Expenditures</b>	<b><u>\$44,082</u></b>	<b><u>\$49,415</u></b>
Cash Funds	39,790	43,946
Centrally Appropriated Costs	4,292	5,469
<b>TABOR Impact</b>	Less than \$20,000	Less than \$20,000
<b>FTE Position Change</b>	0.5 FTE	0.5 FTE
<b>Appropriation Required:</b> \$39,790 - Department of Regulatory Agencies (FY 2017-18).		
<b>Future Year Impacts:</b> Ongoing expenditure and revenue increase, and diversion of General Fund.		

**NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.**

**Summary of Legislation**

This bill requires the Commissioner of Insurance to investigate complaints against health insurance carriers filed by health care providers alleging improper handling of claims or denial of benefits. Under current law, such investigations may be conducted at the discretion of the Commissioner. In addition, the bill requires the Commissioner to notify the provider when the investigation is complete and to inform the provider of the facts and conclusions determined by the investigation. The Commissioner is also required to evaluate complaints filed against insurance carriers to determine if there is a pattern or practice by an insurance carrier of improper handling of claims or denial of benefits. Engaging in such a pattern of improper behavior is classified as an unfair or deceptive practice in the business of insurance.

## **Background**

Under current law, an insurance carrier found to have committed an unfair or deceptive practice may face a range of potential disciplinary actions, including a fine of up to \$3,000 per act and up to \$30,000 per year in total if unknowingly committing the violations or up to \$750,000 per year in total for knowingly committing such violations; suspension or revocation of a company's license; and the mandated payment of contractual claims, if the violation resulted in failure to pay.

## **State Revenue**

The bill potentially increases General Fund revenue from fines by less than \$20,000 per year starting in FY 2017-18. It also results in a diversion from the General Fund starting in FY 2017-18.

**Fines.** The bill potentially increases General Fund revenue by less than \$20,000 per year from fines assessed on insurance carriers by the Division of Insurance in the Department of Regulatory Agencies (DORA) for engaging in a pattern of practices involving improper claims handling and denial of benefits. The fiscal note assumes a high level of compliance by insurance carriers and that any violations that occur will likely be addressed and resolved through cease and desist orders from the Division of Insurance. Therefore, the potential increase in fine revenue is assumed to be minimal (less than \$20,000 per year).

**State diversions.** This bill diverts \$44,082 in FY 2017-18 and \$49,415 in FY 2018-19 from the General Fund. This revenue diversion occurs because the bill increases costs in the Division of Insurance in DORA, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

## **TABOR Impact**

This bill may increase General Fund revenue from fines, 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 both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will increase money available for the General Fund budget in the future during years when the state does not collect money above the TABOR limit.

## **State Expenditures**

The bill increases cash fund expenditures in DORA by \$44,082 and 0.5 FTE in FY 2017-18 and \$49,415 and 0.5 FTE in FY 2018-19. These costs, paid from the Division of Insurance Cash Fund, are summarized in Table 1 and discussed below.

<b>Table 1. Expenditures Under SB 17-133</b>		
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Personal Services	\$20,780	\$24,936
FTE - Dept. of Regulatory Agencies	0.4 FTE	0.4 FTE
FTE - Dept. of Law	0.1 FTE	0.1 FTE
Legal Services	19,010	19,010
Centrally Appropriated Costs*	4,292	5,469
<b>TOTAL</b>	<b>\$44,082</b>	<b>\$49,415</b>

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

**Personal services.** By mandating that investigations be performed by the Commissioner of Insurance for all claim and benefit complaints and requiring that the results of investigations be shared with health care providers, the Division of Insurance in DORA will require an additional 0.4 FTE per year. The costs for this staff are shown in Table 1 and the first-year costs are prorated to reflect a start date of September 1, 2017. Full-year costs are based on 140 provider complaints and investigations per year and each investigation and report requiring 6 hours of staff time.

**Legal services.** The fiscal note assumes that two complaint investigations per year will result in the need for legal services support from the Department of Law. Assuming each matter requires 100 hours of legal services to resolve and a rate of \$95.05 per hour, costs will increase in DORA by \$19,010 per year starting in FY 2017-18.

**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 SB 17-133</b>		
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$2,430	\$3,235
Supplemental Employee Retirement Payments	1,862	2,234
<b>TOTAL</b>	<b>\$4,292</b>	<b>\$5,469</b>

**Effective Date**

The bill was postponed indefinitely by the Senate Business, Labor, and Technology Committee on April 12, 2017.

**State Appropriations**

For FY 2017-18, the bill requires an appropriation of \$39,790 to the Department of Regulatory Agencies from the Division of Insurance Cash Fund, of which \$19,010 is reappropriated to the Department of Law for legal services. In addition, allocations of 0.4 FTE to the Department of Regulatory Agencies and 0.1 FTE to the Department of Law are required.

**State and Local Government Contacts**

Information Technology      Law      Personnel      Regulatory Agencies