



Legislative  
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**FISCAL NOTE**

<b>Drafting Number:</b> LLS 18-0021	<b>Date:</b> February 28, 2018
<b>Prime Sponsors:</b> Rep. Ginal; Jackson Sen. Moreno	<b>Bill Status:</b> House Health, Insurance, and Environment
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**Bill Topic:** PRESCRIPTION DRUG PRICE TRANSPARENCY

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Diversion	<input type="checkbox"/> Statutory Public Entity

This bill requires health insurers and drug manufacturers to report certain information to the Department of Regulatory Agencies. It increases state revenue and expenditures, and diverts funds from the General Fund, on an ongoing basis.

**Appropriation Summary:** Based on this preliminary analysis, the bill requires an appropriation of \$159,639 to the Department of Regulatory Agencies.

**Fiscal Note Status:** While all agencies were canvassed for this fiscal note, not all agencies were able to respond with complete information within the time frames provided. The fiscal note will be updated if more information becomes available. The fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under HB 18-1260\***

		FY 2018-19	FY 2019-20
<b>Revenue</b>	General Fund	less than \$20,000	less than \$20,000
	<b>Total</b>	<b>less than \$20,000</b>	<b>less than \$20,000</b>
<b>Expenditures</b>	Cash Funds	\$159,639	\$154,936
	Centrally Appropriated	\$15,195	\$15,195
	<b>Total</b>	<b>\$174,834</b>	<b>\$170,131</b>
	<b>Total FTE</b>	<b>1.0 FTE</b>	<b>1.0 FTE</b>
<b>Diversions</b>	General Fund	(\$174,834)	(\$170,131)
	Cash Funds	\$174,834	\$170,131
	<b>Total</b>	<b>\$0</b>	<b>\$0</b>

\*Preliminary estimate.

## Summary of Legislation

This bill requires that health insurance carriers and drug manufacturers report on certain information on pharmaceutical drug prices, costs, and usage. The requirements of the bill are outlined below.

**Health insurers.** Health insurance carriers are required to report information to the Division of Insurance in the Department of Regulatory Agencies (DORA) on prescription drugs covered under their health insurance plans, including the most frequently prescribed drugs, the most costly drugs, and the drugs with the highest increase in spending over the previous year. This information must be included as part of the annual health care cost report that is submitted to DORA by June 1 of each year, starting in 2019.

**Drug manufacturers.** Under the bill, drug manufacturers are required to send notices of price increases to entities that pay for pharmaceutical drugs, including state agencies, health insurance carriers, and pharmacy benefit management firms, starting on July 1, 2018. The notice must be provided at least 90 days prior to the price increase taking effect for any price increase that exceeds 10 percent for any drug with a cost of over \$40 per course of therapy. The notice must include certain information on the justification for the price increase. In addition, the bill requires drug manufacturers to submit information quarterly to the Division of Insurance about any price increases for which notices were sent to health care payers. Drug manufacturers must also submit information to the division about any new specialty drugs introduced into the market.

**Publication of drug information.** The Division of Insurance must publish information received from drug manufacturers on its website within 30 days of its receipt, with data presented in a non-aggregated manner that allows for the identification of individual drugs. The division, or a disinterested third-party contractor, must compile the information submitted by health insurance carriers and drug manufacturers into an annual report published each December starting in 2019. Among other things, this report must analyze how pricing by drug manufacturers affects health insurance premiums. The report must also be provided to the various health-related committees of the General Assembly and presented as part of DORA's SMART Government Act presentation to the General Assembly.

**Enforcement.** The State Board of Pharmacy in DORA is authorized to take enforcement action against drug manufacturers that do not comply with the requirements of the bill. Penalties for noncompliance may include a fine of not less than \$1,000 per day that a drug manufacturer fails to comply with the notice or reporting requirements.

## State Revenue

The bill increases state revenue by less than \$20,000 per year starting in FY 2018-19 from fines on drug manufacturers. It is assumed any fine revenue is deposited into the General Fund. Given that the State Board of Pharmacy in DORA has discretion on whether or not to impose a fine and the level of compliance by drug manufactures is not known, an exact revenue estimate cannot be provided. However, assuming a high level of compliance by drug manufacturers, it is estimated that fine revenue generated will be less that \$20,000 per year.

**TABOR Refund**

The bill increases state revenue subject to TABOR by less than \$20,000 per year in FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

**State Diversions**

This bill diverts \$174,834 from the General Fund in FY 2018-19 and \$170,131 in FY 2019-20. 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.

**State Expenditures**

Preliminarily, this bill is estimated to increase costs in DORA by \$174,834 and 1.0 FTE in FY 2018-19 and \$170,131 and 1.0 FTE in FY 2019-20. These costs, which are paid from the Division of Insurance Cash Fund, are shown in Table 2 and discussed below.

**Table 2**  
**Expenditures Under HB 18-1260**

	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$78,986	\$78,986
Operating Expenses and Capital Outlay Costs	\$5,653	\$950
Data Contractor	\$75,000	\$75,000
Centrally Appropriated Costs*	\$15,195	\$15,195
FTE – Personal Services	1.0 FTE	1.0 FTE
<b>Total Cost</b>	<b>\$174,834</b>	<b>\$170,131</b>
<b>Total FTE</b>	<b>1.0 FTE</b>	<b>1.0 FTE</b>

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

**Staffing expenses.** DORA will require 1.0 FTE in the Division of Insurance for a rate/financial analyst to coordinate and monitor data submissions, conduct analyses, post information on DORA's website, and refer any noncompliance to the State Board of Pharmacy for enforcement action. Personal services, operating, and capital outlay expenses for this staff are shown in Table 2 above.

**Data contractor.** It is assumed that DORA will use a contract data and actuarial analyst to analyze how drug pricing affects health insurance premiums and to assist in preparation of the annual report to the General Assembly. This contractor is estimated to cost \$75,000 per year based on studies of similar scope and complexity.

**Enforcement.** The State Board of Pharmacy will have additional workload to review reports and complaints alleging noncompliance by drug manufacturers and to potentially take disciplinary action. Any enforcement activities may also increase legal service costs for DORA, which is provided by the Department of Law. To the extent enforcement actions are challenged by drug manufacturers, workload may also increase for the Office of Administrative Courts in the Department of Personnel and Administration and the trial courts in the Judicial Department to review these cases. It is assumed that this work can be accomplished within existing appropriations.

**Information technology costs.** The bill may also require the Office of Information Technology to develop an online data submission tool for health insurance carriers and drug manufacturers to use to submit the required data. Costs for this potential expense have not been estimated in this preliminary fiscal note.

**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. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$15,195 per year in FY 2018-19 and FY 2019-20.

## Effective Date

The bill takes effect July 1, 2018.

## State Appropriations

For FY 2018-19, this bill requires an appropriation of \$159,639 from the Division of Insurance Cash Fund to the Department of Regulatory Agencies and an allocation of 1.0 FTE.

## State and Local Government Contacts

Health Care Policy and Financing  
Judicial  
Personnel

Information Technology  
Law  
Regulatory Agencies