



**Colorado  
Legislative  
Council  
Staff**

**SB16-213**

**FISCAL NOTE**

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

**Drafting Number:** LLS 16-0897 **Date:** May 6, 2016  
**Prime Sponsor(s):** Sen. Scheffel, Ulibarri **Bill Status:** Senate SVMA  
 Rep. Singer, DelGrosso **Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** CONSTRUCTION DEFECT LITIGATION STUDY GROUP

Fiscal Impact Summary	FY 2015-2016 (Current year)	FY 2016-2017	FY 2017-2018
<b>State Revenue</b> Cash Funds	Potential gifts, grants, and donations.		
<b>State Expenditures</b>		\$93,030	Potential increase.
General Fund		79,368	Potential increase.
Centrally Appropriated Costs		13,662	Potential increase.
<b>FTE Position Change</b>		1.0 FTE	Potential increase.
<b>Appropriation Required:</b> \$79,368 - Judicial Department (FY 2016-17).			
<b>Future Year Impacts:</b> Potential increase in state revenue and expenditures.			

**NOTE:** While all agencies were canvassed for this analysis, not all agencies were able to respond with complete information within the required time frames. Therefore, this fiscal note should be considered preliminary. It will be revised if more information becomes available.

**Summary of Legislation**

This bill creates the construction defect litigation study group within the Judicial Department to investigate matters concerning construction defect litigation in district courts. The study group consists of ten appointees made within 60 days of the passage of this bill, including:

- an attorney representing construction professionals, appointed by the President of the Senate;
- an attorney representing plaintiffs in construction defect litigation, appointed by the Speaker of the House of Representatives;
- an attorney with experience representing companies that provide insurance to construction professionals, appointed by the Minority Leader of the Senate;
- an attorney representing homeowners' associations or other multiple-owner entities in construction defect litigation, appointed by the Majority Leader of the House of Representatives;

- an attorney with experience representing owners of single-family homes in construction litigation, appointed by the Governor;
- an attorney with experience providing insurance coverage to construction professionals, appointed by the Governor;
- a representative of a trade organization of construction professionals, appointed by the Governor; and
- three district court judges with experience presiding over construction defect litigation, appointed by the chief justice of the Colorado Supreme Court.

Members of the study group serve without compensation, but may be reimbursed for expenses incurred. Expenses are paid out of the Construction Defect Litigation Cash Fund, which the bill creates. This fund is to consist of appropriations made by the General Assembly and any gifts, grants, or donations received by the Judicial Department to fund a pilot program. Moneys in the fund are continuously appropriated to the Judicial Department. The chair of the study group is chosen by the Chief Justice and he or she shall convene the group within 90 days of the bill's effective date. Staff support is to be provided by the Judicial Department and Chief Justice.

**Reporting.** The study group is required to make a report to the judiciary committees of the General Assembly and chief justice of the Judicial Department by March 1, 2017. The report must include any recommended civil rule changes, changes in filing fees, options and alternatives for discovery and preliminary procedural issues, and, if the study group determines it is desirable, a pilot program within the Judicial Department. If the group cannot meet the March 1, 2017, reporting deadline, the Chief Justice may grant an extension.

**Pilot program.** The Chief Justice is authorized to implement the recommendations of the study group and shall determine by April 15, 2017, whether to adopt a pilot program, if recommended. Any pilot program must be implemented on or before May 10, 2017. If approved, the pilot expires December 31, 2018, unless the Chief Justice provides an extension. If a program is established, the Judicial Department must contract for a study to be completed within 15 months of the program's commencement. The bill specifies other requirements concerning reporting related to the study.

The bill is repealed effective July 1, 2020.

## **State Revenue**

Beginning in FY 2015-16, this bill may increase state revenue from the receipt of any gifts, grants, or donations. Any funds received are exempt from the requirements of TABOR. As of this writing, no sources of gifts, grants, or donations have been identified.

Depending on the recommendations and decisions about whether to implement those recommendations, the bill may also result in changes to filing fees for construction defect cases. As any such impacts are speculative, the fiscal note has not estimated these impacts.

## **State Expenditures**

This bill increases state General Fund expenditures in the Judicial Department by \$93,030 and 1.0 FTE for FY 2016-17 only as shown in Table 1. As discussed below, costs may increase as of FY 2017-18 depending on the outcomes of the report issued by the study group.

<b>Table 1. Expenditures Under SB16-213</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Personal Services	\$65,715	To be determined
FTE	1.0 FTE	
Operating Expenses and Capital Outlay Costs	5,653	
Member Reimbursements	8,000	
Centrally Appropriated Costs*	13,662	
<b>TOTAL</b>	<b>\$93,030</b>	<b>To be determined</b>

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

**Judicial Department.** This analysis assumes that the equivalent of 1.0 FTE is needed to staff the study group from July 1, 2016, through March 1, 2017. One-time capital outlay and standard operating costs are included. Member expense reimbursements assume \$100 per member, per meeting, for an estimated eight meetings.

No costs are included for implementation of a pilot program or any of the recommendations included in the study group's report. The fiscal note assumes any such changes will be addressed through the annual budget process. Based on other recent evaluations in the Judicial Department, a study is expected to cost in the range of \$150,000 to \$200,000.

**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 SB16-213</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,039	\$0
Supplemental Employee Retirement Payments	5,623	0
<b>TOTAL</b>	<b>\$13,662</b>	<b>\$0</b>

**Effective Date**

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

**State Appropriations**

For FY 2016-17, the bill requires an appropriation of \$79,368 General Fund and an allocation of 1.0 FTE to the Judicial Department.

**State and Local Government Contacts**

Governor's Office

Information Technology

Judicial