



**Colorado  
Legislative  
Council  
Staff**

**HB17-1085**

**FISCAL NOTE**

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

**Drafting Number:** LLS 17-0522  
**Prime Sponsor(s):** Rep. Neville P.

**Date:** February 2, 2017  
**Bill Status:** House Health, Insurance, and Environment  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** WOMEN'S HEALTH PROTECTION ACT

<b>Fiscal Impact Summary</b>	<b>FY 2016-2017 (Current Year)</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	<b>&lt;\$5,000</b>	<b>&lt;\$5,000</b>	<b>&lt;\$5,000</b>
General Fund	<5,000	<5,000	<5,000
<b>State Expenditures</b>	<b>49,236</b>	<b>\$303,667</b>	<b>\$303,667</b>
General Fund	41,329	241,723	241,723
Centrally Appropriated Costs	7,907	61,944	61,944
<b>TABOR Impact</b>	None.	<\$5,000	<\$5,000
<b>FTE Position Change</b>	0.3 FTE	2.1 FTE	2.1 FTE
<b>Appropriations Required:</b> \$41,329 (FY 2016-17) and \$241,723 (FY 2017-18) - Department of Law.			
<b>Future Year Impacts:</b> Ongoing state revenue and expenditure increase.			

**Summary of Legislation**

The bill requires all abortion clinics in the state register with the Attorney General within 30 days of the effective date of this bill. Abortion clinics are defined as any non-hospital facility that performs three or more abortions in the first trimester of pregnancy in any month or any abortions in the second or third trimesters. Registrations are valid for one year and must be renewed annually. The bill also requires the Attorney General to conduct an initial on-site visit to each facility filing a registration, and then conduct at least one inspection annually thereafter. The bill requires abortion clinics to provide certain information about the number of abortions performed, the methods used, the number of infants born alive at the clinic, and transportation of women and born-alive infants to hospitals.

The bill requires the Attorney General to establish policies and procedures for annual inspections, which must include a determination of whether an abortion clinic is conducting abortions after 20 weeks gestation; a review of medical equipment, hazardous waste disposal, and sanitation procedures; and a check on compliance with medical privacy laws. The Attorney General is also required to develop a procedure for receiving and investigating complaints received from the public. All registration records are public records and available for inspection under the Colorado Open Records Act.

The Attorney General is authorized to levy civil penalties on clinics that do not operate in a medically safe manner, fail to have appropriate equipment, fail to transport born-alive infants to the hospital, or violate any other provision of law. The Attorney General may also order that a clinic be closed if violations are found. Civil penalties may be imposed up to \$5,000, and the bill specifies the factors that must be considered by the Attorney General when determining whether to fine or close an abortion clinic. The Attorney General and local district attorneys may institute a legal action to enforce the collection of civil penalties, and women or infants injured by the actions of an abortion clinic may file a civil suit to recover damages.

## **Background**

Under current law, the Health Facilities and Emergency Medical Services Division within the Department of Public Health and Environment licenses most health facilities in the state, but does not differentiate facilities by the types of medical procedures performed. The Attorney General does not currently regulate health facilities.

## **Assumptions**

The fiscal note assumes there are 37 abortion clinics in the state that will register under the bill, a figure which is anticipated to remain relatively constant year to year. In calculating the implementation costs, it is assumed that the bill will take effect and new staff will begin work on May 1, 2017. Further, it is assumed that all clinics will initially register within 30 days of the bill taking effect, by June 1, 2017. Lastly, it is assumed that the Attorney General's registration program under this bill will be in addition to the current health facility licensing duties conducted by the Department of Public Health and Environment.

## **State Revenue**

Beginning in FY 2016-17, this bill is anticipated to increase state revenue from civil penalties by less than \$5,000 per year, credited to the General Fund. Under the bill, the Attorney General may seek civil penalties of up to \$5,000 for violations of the bill or registration program rules established by the Attorney General. The fiscal note assumes a high level of compliance among health care providers and that any revenue generated is likely to be less than \$5,000. For information concerning potential registration fees paid by abortion clinics, see the Technical Note section.

## **TABOR Impact**

This bill increases state General Fund revenue from civil penalties, 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. TABOR refund obligations are not expected for FY 2016-17. 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**

By tasking the Attorney General with regulatory oversight of abortion clinics, the bill will increase expenditures in the Department of Law by \$49,236 and 0.2 FTE in FY 2016-17 and \$303,667 and 2.0 FTE in FY 2017-18 and future years, paid from the General Fund. In addition, the Department of Law requires an additional 0.1 FTE for legal services. Workload is also increased in the trial courts. These costs are shown in Table 1 and described below.

<b>Table 1. Expenditures Under HB 17-1085</b>			
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Personal Services	\$21,782	\$217,821	\$217,821
FTE	0.3 FTE	2.1 FTE	2.1 FTE
Operating Expenses and Capital Outlay Costs	9,406	1,900	1,900
Legal Services	9,505	19,010	19,010
Travel Costs	636	2,992	2,992
Centrally Appropriated Costs*	7,907	61,944	61,944
<b>TOTAL</b>	<b>\$49,236</b>	<b>\$303,667</b>	<b>\$303,667</b>

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

**Staffing.** The Department of Law will require 2.0 FTE, including a physician and a health care professional to process registrations and inspect facilities. Based on the assumed May 1, 2017, start date for this staff and the General Fund paydate shift, 0.2 FTE is required in the first year. Personal services costs for this staff are listed in Table 1 above. These staff will establish rules, create a registration process, evaluate applications, conduct annual on-site inspections, and perform other tasks as necessary to regulate abortion clinics in accordance with the bill. These staff will also receive, investigate and respond to complaints about abortion clinics and, when necessary, pursue disciplinary action. Standard operating expenses and capital outlay costs for these staff are \$9,406 in FY 2016-17 and \$1,900 in FY 2017-18 and each year thereafter.

**Travel costs.** The bill requires the Department of Law to conduct on-site inspections of registered abortion clinics in the state, which will increase travel costs by \$2,992 per year (prorated to \$636 in the first year). It is assumed that staff will have mileage costs of \$1,552, based on 8,000 miles at a cost of \$0.194 per mile using an existing state vehicle. One overnight stay per month is assumed at a cost of \$120 per day, resulting in a cost of \$1,440.

**Legal services.** The Department of Law will require 100 hours of legal services in FY 2016-17 and 200 hours in subsequent years. These legal services will include counsel on rulemaking, implementation, and enforcement actions. These costs will total \$9,505 in FY 2016-17 and \$19,010 in FY 2017-18 and future years. The Department of Law requires an allocation of 0.1 FTE for legal service staff beginning in FY 2016-17.

**Judicial Department.** The bill may increase workload in the trial courts by a minimal amount to conduct hearings concerning civil penalties or closure orders against abortion clinics sought by the Attorney General or a district attorney. Any potential increase from these cases is assumed to be minimal and can be accomplished within existing appropriations.

**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 HB 17-1085*</b>			
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$1,704	\$17,045	\$17,045
Supplemental Employee Retirement Payments	1,864	19,518	19,518
Indirect Cost Recovery	4,339	25,381	25,381
<b>TOTAL</b>	<b>\$7,907</b>	<b>\$61,944</b>	<b>\$61,944</b>

\*More information is available at: [www.leg.colorado.gov/fiscalnotes](http://www.leg.colorado.gov/fiscalnotes).

### **Local Government Impact**

The bill may increase workload for district attorneys to pursue legal action to enforce collection of civil penalties under the bill. The fiscal note assumes a high level of compliance among registered abortion clinics and as a result, any potential workload increase as a result of civil penalties is anticipated to be minimal.

### **Effective Date**

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

### **Technical Note**

**Fee authority.** The bill does not specifically give the Attorney General the authority to collect fees for the registration of abortion clinics. Therefore, revenue from registration fees is not included in the State Revenue section. If such authority were in the bill, the fiscal note estimates annual revenue of \$259,000 per year beginning in the current FY 2016-17, credited to the General Fund. Based on the estimated costs of the program and the number of abortion clinics in the state, the annual registration fee is estimated at \$7,000 per year.

**Effective date.** The bill takes effect upon signature of the Governor and then requires that abortion clinics register within 30 days of this date. Given the short time frame, the Department of Law may have difficulty hiring staff and setting program rules so as to allow clinics sufficient time to register by the deadline.

### **State Appropriations**

For the current FY 2016-17, the Department of Law requires a General Fund appropriation of \$41,328 and an allocation of 0.3 FTE.

For FY 2017-18, the Department of Law requires a General Fund appropriation of \$241,723 and an allocation of 2.1 FTE.

**State and Local Government Contacts**

District Attorneys  
Information Technology  
Personnel  
Regulatory Agencies

Health Care Policy and Financing  
Judicial  
Public Health and Environment