



Legislative
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HB 18-1260

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 28, 2018)

Drafting Number: LLS 18-0021
Prime Sponsors: Rep. Ginal; Jackson
Sen. Moreno

Date: March 14, 2018
Bill Status: House Appropriations
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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 starting in FY 2020-21.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the House Health Insurance, and Environment Committee.

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

		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Revenue	General Fund	-	-	<\$20,000	<\$20,000
	Total	-	-	<\$20,000	<\$20,000
Expenditures	Cash Funds	-	-	\$162,639	\$82,936
	Centrally Approp.	-	-	\$15,195	\$15,195
	Total	-	-	\$177,834	\$98,131
	Total FTE	-	-	1.0 FTE	1.0 FTE
Diversions	General Fund	-	-	(\$177,834)	(\$98,131)
	Cash Funds	-	-	\$177,834	\$98,131
	Total	-	-	\$0	\$0

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 2021.

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, 2020. 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 2021. 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 2020-21 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 starting in FY 2020-21. While these fiscal years are outside of the current revenue forecast period, should refunds be required in FY 2020-21 or future years when the state next collects a TABOR surplus, the TABOR refund will be increased.

State Diversions

This bill diverts \$177,834 from the General Fund in FY 2020-21 and \$98,131 in FY 2021-21. 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

This bill is estimated to increase costs in DORA by \$177,834 and 1.0 FTE in FY 2020-21 and \$98,131 and 1.0 FTE in FY 2021-22. 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**

	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Dept. of Regulatory Agencies				
Personal Services	-	-	\$78,986	\$78,986
Operating / Capital Expenses	-	-	\$5,653	\$950
Data system	-	-	\$78,000	\$3,000
Centrally Appropriated Costs*	-	-	\$15,195	\$15,195
FTE – Personal Services	-	-	1.0 FTE	1.0 FTE
Total Cost	-	-	\$177,834	\$98,131
Total FTE	-	-	1.0 FTE	1.0 FTE

* 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 system. It is assumed that DORA will require an online data submission system that will allow drug manufacturers to submit the required data, and for DORA analysts to extract data and perform the required analyses. The cost of this system is estimated at \$78,000 in FY 2020-21, with \$3,000 per year in FY 2021-22 and future years for ongoing maintenance. This work will be conducted by the Office of Information Technology using reappropriated funds.

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.

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 2020-21 and FY 2021-22.

Effective Date

The bill takes effect July 1, 2018.

State and Local Government Contacts

Health Care Policy and Financing
Judicial
Personnel

Information Technology
Law
Regulatory Agencies