# SB10-011

*Colorado Legislative Council Staff Fiscal Note*

# STATE and LOCAL FISCAL IMPACT

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| **Drafting Number:** | LLS 10-0215 | **Date:** | March 22, 2010 |
| **Prime Sponsor(s):** | Sen. Carroll M.<br>Rep. Miklosi | **Bill Status:** | Senate Judiciary |
| | | **Fiscal Analyst:** | Clare Pramuk (303-866-2677) |

**TITLE:** CONCERNING MEASURES TO REDUCE CONFLICTS OF INTEREST IN WORKERS' COMPENSATION CASES.

| Fiscal Impact Summary | FY 2010-2011 | FY 2011-2012 |
|---|---|---|
| **State Revenue**<br>General Fund | See State Revenue Section. | |
| **State Expenditures**<br>Multiple Funding Sources<br>General Fund, Cash Funds, Federal Funds | See State Expenditures Section. | |
| **FTE Position Change** | | |
| **Effective Date:** Section 1 takes effect July 1, 2010; the remainder of the bill takes effect upon signature of the Governor, or upon becoming law without his signature. | | |
| **Appropriation Summary for FY 2010-2011:** None. | | |
| **Local Government Impact:** See Local Government Impact section. | | |

## Summary of Legislation

This bill, recommended by the Interim Committee to Study Issues Related to Pinnacol Assurance, makes several changes to workers' compensation law concerning conflicts of interest by physicians, insurers and employers. It requires physicians who provide independent medical examinations to disclose any business, financial, employment, or advisory relationships with an insurer or self-insured employer upon request. It prohibits the payment or receipt of a financial incentive to encourage the delay or denial of a workers' compensation claim. The bill prohibits third-party communications between a treating physician and the employer or insurer of an injured worker. The communication may only occur if the injured worker is present, or it must be conducted in writing and provided to the injured worker.

Finally, the bill prohibits the inclusion of reversionary interests in indemnity benefits in a workers' compensation insurance contract. This would prevent an insurer from receiving the remaining value of an annuity upon the death of an injured worker. Such a provision, including one in an existing contract, is void and unenforceable.

**Background**

The state self insures its workers' compensation liability. The Department of Personnel and Administration, Risk Management Services (RMS) manages the self-insurance funds used to pay workers' compensation claims on behalf of all state departments. Departments and most state institutions of higher education transfer funds to the RMS to pay claims costs. Each department's transfer amount is based on its 3-year workers' compensation loss history. Transfers are determined during the budget process and adjustments may be made through supplemental appropriations. In FY 2008-09, losses paid for lost-time claims, which does not include medical payments, were $18.6 million for the state.

**State Revenue**

***SB10-011 may increase revenue from penalties to the General Fund.*** A person who pays or receives a financial incentive to deny or delay a claim or medical care is subject to a penalty ordered by the Commissioner of Insurance of up to $3,000 per violation and $30,000 per year. For knowing violations the penalty is up to $30,000 per violation and $750,000 per year. These penalties are paid to the General Fund. As no information is available on the number of incentives being paid, the increase in penalties cannot be determined.

**State Expenditures**

***This bill is expected to increase expenditures for the Department of Personnel and Administration, Risk Management Services.*** The amount of this increase cannot be determined but the expectation of the increase is based on the following assumptions:

1. Requiring a treating physician to only communicate with an employer or insurer in writing or in the presence of the injured worker will lengthen the time to close a claim.
2. Currently, a considerable amount of communication between a physician and employer or insurer occurs over the phone.
3. Due to the difficulty of coordinating the presence of an injured worker with a physician and employer or insurer, the majority of communication will be in writing.
4. Communication delays that result in an injured worker receiving additional days of disability benefits, will increase state expenditures.

As noted in the background, state departments pay for their worker's compensation claims based on a 3-year loss history so any increased expenditures due to SB10-011 are expected to be gradual.

**Local Government Impact**

This bill may result in increased expenditures for local governments that self-insure for worker's compensation for the same reasons as shown for state expenditures.

**Departments Contacted**

Labor and Employment Regulatory Agencies