

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0544	Date: February 10, 2015
Prime Sponsor(s): Rep. Neville P. Sen. Neville T.	Bill Status: House Health, Insurance, and Environment
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BILL TOPIC: WOMEN'S HEALTH PROTECTION ACT

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	at least \$236,000	at least \$55,400
General Fund	<5,000	<5,000
Cash Funds	at least 231,000	at least 50,400
State Expenditures	\$121,565	\$125,165
Cash Funds	104,244	106,358
Centrally Appropriated Costs**	17,321	18,768
FTE Position Change	1.3 FTE	1.4 FTE
TABOR Set Aside	at least \$236,000	at least \$55,400
Appropriation Required: \$104,244 - Department of Public Health and Environment (FY 2015-16)		

* This summary shows changes from current law under the bill for each fiscal year.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

The bill requires the Department of Public Health and Environment (DPHE) to license all abortion clinics in the state. Licenses are valid for one year and must be renewed by the DPHE for an abortion clinic to legally operate in the state. The bill also requires the DPHE to conduct an on-site visit to each facility prior to initial licensure or license renewals and to establish procedures for conducting inspections.

The DPHE must also promulgate rules and standards concerning:

- abortion clinic personnel, including that a physician with admitting privileges at an accredited hospital within 30 miles of the clinic be employed by the clinic and present on days when abortions are performed;
- requirements for the abortion clinic's physical facilities;
- supplies and equipment;
- abortion procedures, including use of anesthesia and vital signs monitoring;
- medical screening and evaluations for each abortion clinic patient;
- minimum recovery room and follow-up care standards;
- minimum incident reporting standards; and
- the treatment of personally identifiable patient information.

The bill also establishes unclassified misdemeanors and criminal and civil penalties for any individuals who violate the requirements of the bill. The director of the DPHE may pursue injunctive relief in the courts against anyone in violation of the terms of the bill. The bill provides related definitions and licensure fees.

Background

Under current law, the Health Facilities and Emergency Medical Services Division within the DPHE licenses most health facilities in the state, but not does differentiate facilities by the types of medical procedures performed.

State Revenue

The bill will increase state revenue by at least \$236,000 in FY 2015-16 and \$55,400 in future fiscal years. As discussed below, most of this revenue is licensing revenue to the DPHE, as well as minimal amounts of fine revenue.

Fee impact on businesses. Under the bill, a licensee is defined as an individual, a partnership, a limited liability company, or a corporation licensed to operate an abortion clinic. The fiscal note assumes there are approximately 35 abortion clinics and potential licensees in the state, which is anticipated to remain relatively constant. To the extent that the number of abortion clinics in Colorado varies, the potential fee revenue under HB 15-1128 will also change. Fee revenue is deposited in the Health Facilities General Licensing Cash Fund.

Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. The table below identifies the fee impact of this bill.

Type of Fee	Proposed Fee	Abortion Clinics	Total Fee Impact
Initial Licensure by DPHE	\$6,600	35	\$231,000
Annual License Renewal by DPHE	\$1,440	35	\$50,400

Criminal fines. Beginning in FY 2015-16, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for the unclassified misdemeanor created in HB 15-1128 is \$50 to \$500. The fiscal note assumes a high level of compliance among licensees and that any revenue generated is likely to be less than \$5,000.

Civil penalties. Beginning in FY 2015-16, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the General Fund. The fine for the unclassified misdemeanor created in HB 15-1128 is a civil penalty or a fine up to \$5,000. The fiscal note assumes a high level of compliance among licensees and that any revenue generated is likely to be less than \$5,000.

State Expenditures

The bill may increase expenditures in several state agencies, as discussed below. The bill will increase expenditures in the DPHE by \$121,565 and 1.3 FTE in FY 2015-16 and \$125,126 and 1.4 FTE in FY 2016-17, paid from the Health Facilities General Licensing Cash Fund. These costs are shown in Table 2 and described below.

Table 2. Expenditures to the DPHE Under HB 15-1128		
Cost Components	FY 2015-16	FY 2016-17
Personal Services	\$84,941	\$87,609
FTE	1.3 FTE	1.4 FTE
Operating Expenses and Capital Outlay Costs	7,538	1,330
Legal Services	7,561	9,451
Travel Costs	4,204	7,968
Centrally Appropriated Costs*	17,321	18,768
TOTAL	\$121,565	\$125,126

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

Staffing. The DPHE will require \$84,941 and 1.3 FTE in FY 2015-16 for staff to implement the requirements of the bill. The DPHE will be responsible for rulemaking, creating an application process, evaluating applications, conducting annual on-site inspections, and other tasks as necessary for the licensure of abortion clinics. There will also be workload for these staff to investigate and respond to complaints about licensed abortion clinics and, when necessary, pursue disciplinary action. The DPHE will also conduct compliance reviews to ensure facilities are operating under the minimum requirements DPHE establishes. Standard operating expenses and capital outlay costs are \$7,538 in FY 2015-16 and \$1,330 in FY 2016-17 and each year thereafter.

Travel costs. The bill requires the DPHE to conduct on-site inspections of licensed abortion clinics in the state. The fiscal note assumes that approximately 25 percent of these abortion clinics will be outside of the Denver metro area and require staff travel time and overnight stays. Therefore a state vehicle must be leased for \$287 per month. These costs are prorated by 6 months in FY 2015-16. The travel costs also account for any complaints that the DPHE may be required to investigate.

Department of Public Safety (DPS). The DPS may be responsible for conducting fire safety inspections at some abortion clinics licensed by the DPHE. While the potential number of abortion clinics that will require fire and life safety code inspections by the DPS is unknown, the fiscal note assumes any costs will be minimal. However, if there is no qualified local fire inspector or plan reviewer available, the DPS may be required to conduct the fire and life safety code inspection for the DPHE. The fiscal note assumes that any potential increase in appropriations can be addressed within the annual budget process.

Judicial Department. The bill may increase workload in the trial courts by a minimal amount. The bill creates two new misdemeanors that do not currently exist in Colorado, which may increase the number of misdemeanor cases heard in the trial courts. However, any potential workload increase is anticipated to be minimal and can be addressed within existing appropriations and resources. The bill may result in hearings concerning injunctions against abortion clinics sought by the DPHE. Any potential increase from these cases is assumed to be minimal and can be absorbed within existing appropriations.

Department of Law (DOL). The bill will require the DOL to provide legal services to the DPHE. The fiscal note assumes that the DPHE will contract approximately 80 hours of legal counsel with the Department of Law in FY 2015-16 at a cost of \$7,561. These legal services will include counsel on rulemaking, implementation, and enforcement actions. In FY 2016-17, the DOL will provide 100 hours of legal services. These cost increases account for any complaints that the DPHE may investigate and require legal counsel to resolve.

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 3.

Table 3. Centrally Appropriated Costs Under HB 15-1128*		
Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$10,737	\$11,271
Supplemental Employee Retirement Payments	\$6,584	\$7,497
TOTAL	\$17,321	\$18,768

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

The bill may increase workload in local governments by a minimal amount. To the extent that civil penalties are filed by the DPHE, the district attorney for the county in which the violation occurred may be required to institute legal action to enforce collection of civil penalties or fines. The fiscal note assumes a high level of compliance among licensees and as a result, any potential workload increase as a result of civil penalties is anticipated to be minimal and can be absorbed within existing resources.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. Because HB 15-1128 creates new misdemeanors concerning the licensure and operations of a specific type of health facility, no data exists at this time on comparable crimes. The fiscal note assumes compliance under the terms of the bill.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. All abortion clinics must be licensed with the DPHE by January 1, 2016.

State Appropriations

The bill requires an appropriation of \$104,244 from the Health Facilities and Emergency Medical Services Cash Fund in the Department of Public Health and Environment (DPHE). From this amount, the bill also requires reappropriations from the DPHE of \$1,668 to the Department of Personnel's Division of Central Services for vehicle lease costs and \$7,561 to the Department of Law for legal services.

State and Local Government Contacts

Public Health and Environment
Judicial Department
Health Care Policy and Financing
Municipalities
Corrections

Human Services
Counties
Law
Public Safety
District Attorneys