



**Colorado  
Legislative  
Council  
Staff**

**SB17-001**

**FISCAL NOTE**

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

<b>Drafting Number:</b> LLS 17-0174	<b>Date:</b> January 18, 2017
<b>Prime Sponsor(s):</b> Sen. Neville T. Rep. Neville P.	<b>Bill Status:</b> Senate Business, Labor, & Technology <b>Fiscal Analyst:</b> Anna Gerstle (303-866-4375)

**BILL TOPIC:** ALLEVIATE FISCAL IMPACT STATE RULES SMALL BUSINESS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	Minimal decrease.	
State Expenditures	Workload increase and decrease.	
TABOR Impact	Minimal decrease.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing minimal revenue decrease and workload impact.		

**Summary of Legislation**

The bill requires that when a small business commits a first-time, minor violation of certain administrative rules, state agencies must notify the small business in writing of the violation, including steps needed to correct the violation, and give the small business 30 business days to address the violation. If the small business fails to address the violation within that time, the agency may impose a fine. A small business may request additional time if it has made a good faith effort to address the violation. The bill does not apply to situations where statute requires an agency to assess a fine for noncompliance with an agency rule or statute.

The bill defines minor violation as one that includes operational or administrative matters such as record keeping, data retention, or report filing, and is enforced by a fine. A minor violation does not include a violation that puts the safety of the public or employees at risk, or one that relates to:

- state-issued permits, licenses, or registrations;
- bidding on state contracts;
- activities required by federal law;
- enforcement of the Uniform Consumer Credit Code by the Attorney General's Office;
- or
- rules adopted by the Colorado Civil Rights Division or the Department of Public Health and Environment (CDPHE).

Under current law, agencies must establish a stakeholder group to provide feedback on proposed rules and must make an effort to receive input from each stakeholder group impacted by the proposed rule. The bill requires that state agencies also make diligent attempts to notify and request input from small businesses about proposed rules, including the fiscal impact of the proposed rules and ways for those impacts to be addressed.

## **Background**

Colorado law defines a small business as a business with fewer than 500 employees. According to the Small Business Administration, there are approximately 572,546 small businesses in Colorado, making up approximately 98 percent of businesses in Colorado.

## **State Revenue**

The bill decreases state revenue by a minimal amount beginning in FY 2017-18. To the extent that state agencies currently assess fines for first-time, minor violations of rules by small businesses with fewer than 500 employees, revenue from fines to those state agencies will decrease. The fiscal note assumes that a minimal amount is collected from first-time, minor violations and, as a result, revenue will decrease by a minimal amount.

## **TABOR Impact**

This bill reduces state revenue from fines, which will reduce 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.

## **State Expenditures**

Beginning in FY 2017-18, the bill increases the workload for most state agencies and may decrease the workload for the Judicial Department, as discussed below. The workload increase is expected to be accomplished within existing appropriations; however, if additional appropriations are required, it will be addressed by each agency through the annual budget process.

**Rules subject to bill.** Agencies must determine whether, and to what extent, their rules are exempted from or subject to the bill, as well as which businesses have 500 or fewer employees. A significant amount of state regulatory activity is exempt from the bill, but legal services will likely be necessary to determine which rules are subject to the bill's requirements. It is expected that legal counsel will be accommodated within each agency's allotted legal hours, provided by the Department of Law.

**Steps to correct the violation.** The bill increases the workload of affected state agencies to provide small businesses that commit a first-time, minor violation of a rule with the steps needed to cure the violation, and to follow up after thirty days to ensure compliance or grant the business additional time.

**Outreach.** Currently, state agencies conduct outreach to impacted persons and entities, including small businesses, during the rulemaking process. The requirement that agencies solicit information on the fiscal impact of proposed rules and ways to alleviate those impacts increases the workload for state agencies by a minimal amount.

**Judicial Department.** The bill may reduce the workload for the Judicial Department to conduct judicial review by a minimal amount. Assuming fewer fines are imposed by state agencies, there will likely be fewer agency actions that can be reviewed by the courts.

**Effective Date**

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

All Departments