



**Colorado
Legislative
Council
Staff**

HB17-1021

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 24, 2017)

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

Drafting Number: LLS 17-0075
Prime Sponsor(s): Rep. Danielson
Sen. Cooke

Date: March 17, 2017
Bill Status: Senate Business
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: WAGE THEFT TRANSPARENCY ACT

Fiscal Impact Summary	FY 2016-2017 (current year)	FY 2017-2018	FY 2018-2019
State Revenue Cash Funds	Potential fee increase. See State Revenue section.		
State Expenditures Cash Funds	Workload and potential expenditure increase. See State Expenditures section.		
TABOR Impact	Potential fee increase.		
Appropriation Required: None.			
Future Year Impacts: Ongoing workload and potential revenue and expenditure increases.			

Note: This fiscal note has been updated to correct an error in the summary.

Summary of Legislation

The **reengrossed** bill requires the Division of Labor (division) in the Colorado Department of Labor and Employment (CDLE) to treat certain information pertaining to a wage law violation as public record available on request pursuant to the Colorado Open Records Act. If the division makes a determination that an employer has violated a wage law, and the employer has exhausted all administrative appeals, the division must release information about that violation to the public upon request, unless the information relates to a trade secret. Before releasing any information, the division's director must notify the employer of the potential release. The employer then has 20 days to provide documentation showing that the information to be released represents a trade secret. Based on this documentation, the director must determine whether or not to keep the information confidential.

Background

In 2015, the division estimated that it made a violation determination on 78 wage claim cases. Last year, which was the first full calendar year that CDLE had a tracking system for wage claims, the division made a violation determination on 274 wage claim cases. The data also show a rise in wage claims over the course of the year. Wage claims typically involve up to 100 pages of supporting documentation, in addition to the 5 page determination.

State Revenue

Beginning in the current FY 2016-17, the bill may increase state cash fund revenue from fees. Under current law, the division may charge \$30 per hour after the first hour for records requests. To the extent that the division charges a fee for records requests, fee revenue will increase and be credited to the Wage Theft Enforcement Cash Fund in CDLE.

TABOR Impact

This bill may increase state cash fund revenue from open records request fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refund obligations are not expected for FY 2016-17. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

Beginning in the current FY 2016-17, the bill will increase workload and may increase state cash fund expenditures in CDLE. The fiscal note estimates that workload will increase for the division every time a wage claim open records request is made to determine what documents submitted are pertinent to the finding of a wage law violation and redact sensitive information from documents that will be released to the public. The division director will also experience an increase in workload to make a determination when an employer provides documentation showing the information to be publicly released represents a trade secret. To the extent that these open records requests increase, additional staff may be required in future fiscal years. The fiscal note expects any future staff needs to be addressed during the annual budget process.

Effective Date

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

Departmental Difference

The CDLE estimates costs of \$74,458 and 1.0 FTE in FY 2017-18, and \$69,755 and 1.0 FTE in FY 2018-19. Using these estimates, the bill will also increase state cash fund revenue from open records requests fees (\$30 per hour after the first hour) by up to \$26,250 in FY 2017-18, and \$52,500 in FY 2018-19. Costs are based on CDLE's estimate that open records requests will increase exponentially under the bill and require 0.5 FTE Compliance Investigator II to determine what documents submitted are pertinent to the finding of a wage law violation and 0.5 FTE Administrative Assistant III to redact sensitive information from documents that will be released to the public. The fiscal note assumes that, at least initially, open records requests can be accomplished within existing workloads. Because the amount of future open records requests cannot be predicted, the fiscal note assumes that the division will address future staffing needs as they are proven necessary during the annual budget process.

State and Local Government Contacts

Information Technology

Judicial

Labor