



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**FISCAL NOTE**

<b>Drafting Number:</b> LLS 18-0494	<b>Date:</b> January 31, 2018
<b>Prime Sponsors:</b> Rep. McKean	<b>Bill Status:</b> House Judiciary
Sen. Coram	<b>Fiscal Analyst:</b> Kerry White   303-866-3469 Kerry.White@state.co.us

**Bill Topic:** DISCLOSURE OF INFORMATION FOR ASSET RECOVERY

**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 type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill allows a judgment creditor to file a petition in court to require the Colorado Department of Labor and Employment to release information about an individual debtor. The bill increases state revenue and expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2018-19, the bill requires an appropriation of \$87,443 to the Colorado Department of Labor and Employment.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under HB 18-1057**

		FY 2018-19	FY 2019-20
<b>Revenue</b>	General Fund	-	-
	Cash Funds	at least \$64,800	at least \$129,600
	<b>Total</b>	<b>at least \$64,800</b>	<b>at least \$129,600</b>
<b>Expenditures</b>	General Fund	-	-
	Cash Funds	\$87,443	\$95,963
	Centrally Appropriated	\$11,930	\$23,996
	<b>Total</b>	<b>\$99,373</b>	<b>\$119,959</b>
	<b>Total FTE</b>	<b>1.1 FTE</b>	<b>2.2 FTE</b>
<b>Transfers</b>		-	-

## **Summary of Legislation**

This bill allows a judgment creditor to file a petition in court to require the Colorado Department of Labor and Employment (CDLE) to release the name and address of an individual debtor's current employer(s). If the individual debtor opposes the motion, the court is required to hold a hearing within 14 days.

**Fees and expenses.** When the creditor has obtained a court order, it may execute an agreement and pay a fee to CDLE to obtain the employer information, which the CDLE must provide within seven business days. The CDLE is authorized to charge creditors a one-time initiation fee not to exceed \$500, and an annual renewal fee not to exceed \$100. Fees paid to the CDLE may be recovered by the creditor as a taxable litigation cost. All fees received by the CDLE, as well as the fund's interest earnings, are created to the newly created Judgment Debtor Disclosure Fund.

**Confidentiality.** The creditor is required to protect the information from disclosure for purposes unrelated to the satisfaction of the debt and to ensure compliance with federal requirements. The CDLE is authorized to audit any creditors who receive information under the bill to ensure compliance with federal data safeguard and security measures. It must pay for any audit costs with the Judgment Debtor Disclosure Fund.

**Civil penalties and collection costs.** If a creditor is found to be willfully noncompliant with the data safeguard and security measure requirements by a court, it is subject to a civil penalty not to exceed \$1,000 for each violation. Enforcement actions are filed by the Attorney General's Office in the Department of Law. The prevailing party is entitled to an award of reasonable attorneys fees, court costs, and investigative expenses. If the creditor is the prevailing party, the state's costs must be paid for from the Judgment Debtor Disclosure Fund. The bill specifies that a collection agency or privately retained attorney collecting on any debt arising from past-due orders due to the state may add collection related fees and costs to the total amount due. Fees and costs must align with existing state law. These penalties and reimbursements are credited to the General Fund.

## **Assumptions**

In calendar year 2018, there were approximately 73,500 cases where a civil judgment was entered. It is assumed that, on average roughly a third of these cases, or 21,600 cases per year, creditors will pay a fee to the CDLE in order to obtain employer information for debtors and that this fee will be levied as a per-request fee rather than an initiation or annual fee. The caseload assumption is based on historical rates of collection agency involvement. First-year impacts are prorated to account for the January 1, 2019, effective date of the bill.

## **State Revenue**

Beginning in FY 2018-19, this bill will increase state cash fund revenue from fees for employer data requests and may increase General Fund revenue from any civil penalties and reimbursements.

**Fee impact on House Bill 18-1057.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fee calculations will be set administratively by the Colorado Department of Labor and Employment based on cash fund balance, estimated program costs, and the estimated number of requests subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2**  
**Fee Impact on House Bill 18-1057**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
FY 2018-19	Employment record requests	\$6.00	10,800	\$64,800
			<b>FY 2018-19 Total</b>	<b>\$64,800</b>
FY 2019-20	Employment record requests	\$6.00	21,600	\$129,600
			<b>FY 2019-20 Total</b>	<b>\$129,600</b>

**Civil penalties.** To the extent that creditors violate data safeguard and security measure requirements, General Fund revenue from civil penalties and reimbursements for costs may increase. This analysis assumes a high rate of compliance from creditors and that any increase in revenue is likely to be minimal.

### **TABOR Refund**

The bill increases state revenue subject to TABOR by at least \$64,800 in FY 2018-19 and \$129,600 in FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

### **State Expenditures**

The bill increases state cash fund expenditures in the Department of Labor and Employment by \$99,372 and 1.1 FTE in FY 2018-19 and by \$119,959 and 2.2 FTE in FY 2019-20 and future fiscal years. The bill increases workload for the Judicial Department and may increase workload for the Attorney General's Office. Table 3 and the discussion that follows present the costs of the bill.

**Table 3**

	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Department of Labor and Employment</b>		
Personal Services	\$40,252	\$81,993
Operating Expenses and Capital Outlay Costs	\$10,451	\$2,090
Postage	\$5,940	\$11,880
Computer Programming	\$30,800	-
Centrally Appropriated Costs*	\$11,930	\$23,996
FTE – Personal Services	1.1 FTE	2.2 FTE
<b>Total Cost</b>	<b>\$99,373</b>	<b>\$119,959</b>
<b>Total FTE</b>	<b>1.1 FTE</b>	<b>2.2 FTE</b>

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

**Department of Labor and Employment.** The CDLE will require 2.2 FTE in its Unemployment Insurance Division to respond to creditor requests. Staff estimates assume that it will take 10 to 15 minutes to process each request as employer data are paper-based. Postage will be incurred to mail results to the creditor. One-time costs of \$30,800 are incurred in the first year to build a tracking system for the new program.

**Judicial Department.** Workload is increased in order to respond to motions filed by creditors and to hold hearings if these motions are objected to by a debtor. It is assumed that while not all creditors will pay fees and file requests with the CDLE, all creditors will request a court order as a matter of procedure, which will increase workload by an estimated 920 hours per year. As of this writing, it is not known how many debtors will oppose motions made by creditors resulting in a court hearing, but the fiscal analysis assumes it will be only a modest increase. The workload resulting from this bill can be accomplished within existing appropriations to the Judicial Department.

**Attorney General's Office in the Department of Law.** To the extent that the Attorney General's Office must file actions to seek civil remedies against creditors that violate the data safeguard and security measure requirements, workload and costs will increase. This analysis assumes that if this occurs, these costs will be paid for with the CDLE's legal services line or accomplished within existing appropriations to the Department of Law.

**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 \$11,930 in FY 2018-19 and \$23,996 in FY 2019-20.

**Effective Date**

The bill takes effect January 1, 2019, if no referendum petition is filed.

**State Appropriations**

For FY 2018-19, the bill requires a cash fund appropriation of \$87,443 from the Judgment Debtor Disclosure Fund and an allocation of 1.1 FTE to the Colorado Department of Labor and Employment. Of this amount, \$30,800 should be reappropriated to the Office of Information Technology.

**State and Local Government Contacts**

Information Technology  
Law

Judicial  
Personnel

Labor  
Treasury