

Summary of Legislation

The bill requires staffing agencies that place temporary and part-time employees with work-site employers to provide the employees specific information, including:

- the name and address of the staffing agency, the staffing agency's workers' compensation insurance carrier, the work-site employer, and the Division of Labor Standards and Statistics (division) contact information;
- a description of the position that the employee will fill, and any special equipment or training required by the employee and its cost;
- the designated pay day, hourly rate of pay, and whether the employee is eligible for overtime pay;
- the start and anticipated end time of the work day;
- the duration of employment;
- if meals will be provided to the employee and the cost of those meals; and
- the cost of optional transportation to and from the work-site.

This information must be provided to the employee in writing before the end of the first pay period.

The staffing agency must also post a notice in its workplace that includes the name and telephone number of the division, and a description of employees' rights regarding the terms and conditions of their employment.

Furthermore, the bill prohibits a staffing agency or work-site employer from charging an employee:

- a fee for certain work-related expenses or deducting expenses from the employee's wages without authorization from the employee;
- the cost of required specific transportation to or from the work site; or
- more than the actual cost of optional transportation.

The bill prohibits a staffing agency from knowingly issuing, distributing, circulating, or providing false, fraudulent, or misleading information to an employee or applicant for employment. A staffing agency must return any personal property or refund fees owed to the employee on demand. A staffing agency must also inform its employees if the work-site they are assigned to is on strike or lockout.

Beginning January 1, 2021, each staffing agency must annually register with and pay a fee to the division. The division is authorized to promulgate rules, including the information that a staffing agency is required to submit to the division with regards to registration, determine circumstances where a staffing agency's registration may be revoked or suspended, and the annual registration fee. The division is required to maintain a list of the registration status of each staffing agency on its website. The division may assess fines, suspend, or revoke the registration of a staffing agency for violations of the bill.

Finally, work-site employers must verify that staffing agencies are in good standing with the division through the website, and are subject to a fine of up to \$500 per day for contracting with an unregistered staffing agency. Staffing agencies must also inform work-site employers of their registration with the division, and any suspensions, denials, or revocations of their registration.

Assumptions

The fiscal note assumes there are currently 1,505 staffing agencies in Colorado based on data from the Bureau of Labor Statistics, and that this number of agencies will remain relatively flat over the next two years.

State Revenue

Beginning in FY 2020-21, the bill increases state revenue by \$451,500 to the Department of Labor and Employment (CLDE) from fees paid by staffing agencies to register with the division. Revenue will be deposited to a yet to be determined cash fund in the CDLE, see technical note. This revenue is subject to TABOR.

Fee impact on staffing agencies. 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 fees will be set administratively by the Division of Labor Standards and Statistics based on cash fund balance, estimated program costs, and the estimated number of registrants subject to the fee. Table 2 below identifies the fee impact of this bill.

Table 2
Fee Impact on Staffing Agencies

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2020-21	Registration Fee	\$300	1,505	\$451,500
FY 2020-21 Total				\$451,500
FY 2021-22	Registration Fee	\$300	1,505	\$451,500
FY 2021-22 Total				\$451,500

Judicial Department. The bill may increase revenue to the Judicial Department as a result of additional civil case filings. However, the majority of cases are expected to be heard and resolved through the CDLE's Industrial Claim Appeals Office, therefore the increase in revenue is expected to be minimal.

State Expenditures

In FY 2020-21, the bill increases General Fund expenditures by \$551,728. In FY 2021-22, the bill increases expenditures by \$440,722 from a yet to be identified cash fund (see technical note). State expenditures are shown in Table 3 and discussed below.

**Table 3
 Expenditures Under SB 20-192**

Cost Components	FY 2020-21	FY 2021-22
Department of Labor and Employment		
Personal Services	\$266,243	\$319,491
Operating Expenses	\$5,265	\$5,805
Capital Outlay Costs	\$24,800	-
Centrally Appropriated Costs*	\$58,972	\$71,762
FTE – Personal Services	3.5 FTE	4.3 FTE
CDLE (Subtotal)	\$355,280	\$397,058
Office of Information and Technology		
Personal Services	\$28,908	\$34,689
Operating Expenses	\$675	\$675
Capital Outlay Costs	\$6,200	-
Contractor Expenses	\$153,920	-
Centrally Appropriated Costs*	\$6,745	\$8,300
FTE – Personal Services	0.4 FTE	0.5 FTE
OIT (Subtotal)	\$196,448	\$43,664
Total	\$551,728	\$440,722
Total FTE	3.9 FTE	4.8 FTE

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

Department of Labor and Employment. The bill increases expenditures in the CDLE by \$355,280 and 3.5 FTE in FY 2020-21, and by \$397,058 and 4.3 FTE in FY 2021-22.

The CDLE requires additional staff to implement the bill, including:

- 1.0 FTE analyst to populate and maintain the registration website and to process registrations/payments;
- 1.0 FTE administrative assistant to support the analyst in fielding paperwork, email/phone inquiries, and appeal filings;
- 1.0 FTE compliance investigator to investigate complaints and enforce the various requirements and prohibitions included in the bill;
- 1.0 FTE program manager to manage the program as a whole; and
- 0.25 FTE hearing officer to process, hear, and adjudicate appeals received from staffing agencies.

Staffing costs are prorated in FY 2020-21 to reflect an August start date and the General Fund paydate shift. Costs for FY 2021-22 will be paid from cash funds.

Office of Information Technology. The bill increases expenditures in the OIT by \$196,448 and 0.4 FTE in FY 2020-21, and by \$43,664 and 0.5 FTE in FY 2021-22 to develop and support the new website required by the bill. The OIT will hire an outside contractor to develop the website at a cost of \$153,920, assuming 1,040 contractor hours at a rate of \$148 per hour. Additionally, the OIT will require 0.5 FTE information technology professional to provide support to the end users of the website. Staffing costs are prorated in FY 2020-21 to reflect an August start date and General Fund payday shift.

Judicial Department. The bill may increase workload for trial courts by a minimal amount beginning in FY 2020-21, if the bill results in additional civil case filings. The majority of cases are expected to be heard and resolved through the CDLE's Industrial Claim Appeals Office, therefore the increase in workload for trial courts is expected to be minimal.

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 \$65,717 in FY 2020-21 and \$80,062 in FY 2021-22.

TABOR refund. The bill is expected to increase state General Fund obligations for TABOR refunds by \$451,500 in FY 2020-21 and FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Technical Note

The bill does not identify a cash fund to be used for this program, however the fiscal note assumes the program will be cash funded in FY 2021-22 through revenue raised from registration fees.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

In FY 2020-21, the bill requires a General Fund appropriation of \$486,011 and 3.5 FTE to the Division of Labor Standards and Statistics within the Department of Labor and Employment, of which \$189,703 and 0.4 FTE is to be reappropriated to the Office of Information Technology.

State and Local Government Contacts

Information Technology Judicial Labor Personnel