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FINAL FISCAL NOTE

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Prime Sponsors: Sen. Rodriguez Bill Status: Postponed Indefinitely
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Bill Topic: WORKERS' COMPENSATION FOR COVID-19

- Summary of Fiscal Impact:
- State Revenue
- TABOR Refund
- State Expenditure
- Local Government
- State Transfer
- Statutory Public Entity

Under the bill, essential workers who work outside of the home and contract COVID-19 would have been presumed to have contracted the disease through the course of employment, and contraction of COVID-19 would have been considered a compensable accident, injury, or occupational disease for purposes of the Workers Compensation Act of Colorado. The bill would have increased state expenditures beginning in FY 2020-21.

Appropriation Summary: In FY 2020-21, the bill would have required an appropriation of up to \$4.2 million to the Department of Personnel and Administration.

Fiscal Note Status: This fiscal note reflects the introduced bill, as amended by the Senate Finance Committee. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 20-216

Table with 4 columns: Category, Sub-category, FY 2020-21, FY 2021-22. Rows include Revenue, Expenditures (General Fund), Transfers, and TABOR Refund.

Summary of Legislation

The bill provides that, for purposes of the Workers Compensation Act of Colorado, essential workers who work outside of the home and contract COVID-19 are presumed to have contracted the illness in the course of their employment. Additionally, the illness is to be considered a compensable accident, injury, or occupational disease. This presumption may be overcome by a preponderance of evidence that the essential workers' contraction did not occur through the course of their employment.

Essential workers include:

- first responders;
- correctional officers working in a facility with an identified COVID-19 outbreak;
- medical, healthcare, and public health workers;
- home health care workers;
- commercial cleaning workers;
- nursing home workers;
- utility workers and in-home service technicians;
- daycare providers working in a facility with an identified COVID-19 outbreak;
- workers at residential care or residential living facilities treating COVID-19 patients;
- food processing and agricultural workers;
- grocery store workers;
- mass transit drivers or operators; and
- airline employees.

The bill applies to workers' compensation claims for disabilities arising on or after the effective date of this bill. The bill is repealed June 21, 2022.

Background

The Risk Management Program in the Department of Personnel and Administration (DPA) protects the state's human resource and property assets through the administration of liability, property, and workers' compensation coverage for state agencies. The workers' compensation program is used to pay workers' compensation benefits to state employees. The State is self-insured for workers' compensation claims. Annually, the Risk Management program's actuary projects the state's total workers' compensation needs by analyzing prior year's losses. Using this same data, the actuary then estimates the allocation for each agency as a percent of the total (including each institution of higher education).

Assumptions

Based on data from the Department of Public Health and Environment (CDPHE), this fiscal note assumes that 3.26 percent of the population in Colorado will contract COVID-19, and of those that contract COVID-19, 17.56 percent of cases will require hospitalization and 4.15 percent of cases will result in death. Based on the definition of essential worker included in the bill, it is estimated that 10,066 state employees qualify as essential workers. These estimates indicate that 328 state employees will contract COVID-19, 57 will be hospitalized, and 13 will die over the next two fiscal years.

State Expenditures

This bill increases state General Fund expenditures in the DPA by up to \$4.2 million in FY 2020-21, and by up to \$6.4 million in FY 2021-22. These costs are summarized in Table 2 and described below.

Table 2
Expenditures Under SB 20-216*

	FY 2020-21	FY 2021-22
Department of Personnel and Administration		
Hospitalization Expenses	\$684,000	\$1,026,000
Funeral Expenses	\$36,400	\$54,600
Death Befits	\$3,528,423	\$5,292,635
Total Cost	\$4,248,823	\$6,373,235

* Expenses shown in Table 2 represent the upper bound estimate for benefit expenses resulting from the bill. See Technical Note.

Workers' compensation benefits. The bill will increase the amount of workers' compensation benefits awarded to state employees as described below.

Hospitalization expenses. An estimated 23 employees are expected to be hospitalized due to COVID-19 in FY 2020-21, and 34 employees in FY 2021-22. Benefit expenses for hospitalized employees are expected to average approximately \$30,000 per employee.

Funeral expenses and death benefits. An estimated 5 employees are expected to die from COVID-19 in FY 2020-21, and 8 employees in FY 2021-22. Benefit expenses for funerals are expected to average approximately \$7,000 per employee. Death benefits will vary depending on the employee's number of dependents, but are expected to average approximately \$679,000 per employee.

Department of Labor and Employment. The bill will increase workload in the Department of Labor and Employment as a result of additional workers' compensation claims. This increase in workload can be accomplished within existing resources.

Office of Administrative Courts. The bill may increase the number of cases heard by the Office of Administrative Courts (OAC). The OAC hears workers' compensation cases from the Department of Labor and Employment. A small increase in caseload can be accomplished within existing resources. A larger than expected increase in caseload will be resolved through the annual budget process.

Institutions of higher education. Particular institutions of higher education are not covered under the State of Colorado's workers' compensation program, and instead either self-insure or utilize a private insurer. Large institutions such as the University of Colorado System or Colorado State University System anticipate significant increases in expenditures for worker's compensation benefits under the bill. The University of Colorado system anticipates increased expenditures of approximately \$2 million to \$3 million per year over the next two fiscal years.

Statutory Public Entity

This bill will increase the benefits paid to injured workers by Pinnacol Assurance which is a statutory public entity. Any increase in benefit payments will be offset through premiums charged to employers.

Local Governments and Special Districts

The bill will increase costs for local governments and special districts by increasing the amount of benefits paid to injured workers. Statewide, local governments and special districts may have costs between \$6 million and \$20 million as a result of the bill.

Technical Note

Due to the novel nature of the current public health crisis and lack of comparable workers' compensation claims data, this fiscal note is not able to determine the direct increased benefit costs resulting directly from this legislation compared to benefit costs that would have resulted from COVID-19 without this legislation. This fiscal note reflects the estimated benefit costs for all essential state employees, however some portion of these employees were likely to receive workers' compensation benefits regardless of this legislation. For this reason, all costs are reported as "up to" to reflect the uncertainty around these cost estimates.

Effective Date

This bill was postponed indefinitely by the Senate Appropriations Committee on June 10, 2020.

State Appropriations

For FY 2020-21, this bill requires a General Fund appropriation of up to \$4,248,823 to the Department of Personnel and Administration.

State and Local Government Contacts

Counties	Higher Education	Information Technology
Labor	Municipal	Personnel
Pinnacol Assurance	Public Health and Environment	Special Districts