



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

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<b>Drafting Number:</b>	LLS 21-0745	<b>Date:</b>	February 16, 2021
<b>Prime Sponsors:</b>	Rep. Van Beber; Ransom	<b>Bill Status:</b>	House Business
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**Bill Topic:** PROHIBIT DISCRIMINATION LABOR UNION PARTICIPATION

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**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Statutory Public Entity

This bill prohibits mandatory employee membership in a labor organization, with certain exceptions, and creates penalties. On an ongoing basis, the bill may increase state and local revenue and workload, and impact statutory public entities that require union participation.

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**Appropriation Summary:** No appropriation is required.

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

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## Summary of Legislation

This bill prohibits an employer from requiring employee membership in a labor organization as a condition of employment and from requiring employees to pay dues or fees to a labor organization, charity, or other third party. Standing agreements that violate these prohibitions are made void. The bill also defines all-union agreements as unfair labor practices. Violations by employers are considered unclassified misdemeanors and are subject to civil actions and criminal penalties of a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Civil remedies include all damages and attorney fees resulting from the violation. The Attorney General or the district attorney of each judicial district is responsible for investigating complaints and taking actions to enforce the statute. Federal employers and employees, as well as those covered by the Railway Labor Act, are exempt from the bill.

## Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

**Prior conviction data.** This bill creates a new unclassified misdemeanor for employers who require participation with or payment to a labor organization, charity, or other third party as a condition of employment, punishable by a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Under current law, violation of any section of the Labor Peace Act constitutes a misdemeanor punishable by a fine. The fine for Labor Peace Act violations ranges from \$50 to \$100 for the first convicted offense, and \$100 to \$500 for subsequent offenses, together with other costs. In the last three years, there have been no charges or convictions under the Labor Peace Act.

**Assumptions.** Based on recent data, the fiscal note assumes that there will be minimal case filings or convictions for the new offense under the bill.

Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## Background

According to the Bureau of Labor Statistics, union members accounted for 7.4 percent of wage and salary workers in Colorado in 2020.

## State Revenue and Expenditures

Based on the assumptions above, this bill is expected to have a minimal impact on state revenue and expenditures. Under the bill, criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount. Similarly, any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, are assumed to be minimal and no change in appropriations is required.

Beginning in FY 2021-22, this bill may increase workload in the Department of Law, which is responsible for investigating and prosecuting complaints associated with employer violations, and in the Department of Labor and Employment, to answer questions from employers about the law. Because the fiscal note expects a high level of employer compliance, it is assumed that these workload increases will be minimal and can be accomplished within existing appropriations.

**TABOR refunds.** Under the December 2020 Legislative Council Staff Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

## Local Government

Counties that currently use collective bargaining agreements will be minimally impacted as they make necessary changes to conform to the law. It is assumed these costs will be minimal.

Similar to the state, it is expected that any workload or cost for district attorney's offices, the Denver County Court, or county jails related to the misdemeanor in the bill will be minimal.

## **Statutory Public Entity**

Statutory public entities, insofar as these entities require labor union participation, will be minimally impacted by the bill. The Regional Transportation District, for example, currently deducts compulsory union dues from their employees' salaries. The fiscal note assumes that the workload impact will occur as these entities repeal compulsory union membership in accordance with the bill and make updates to their payroll system.

## **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## **State and Local Government Contacts**

Counties	District Attorneys	Higher Education
Information Technology	Judicial	Labor
Law	Municipalities	Personnel
Regional Transportation District	School Districts	Sheriffs
Special Districts		