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Fiscal Note

Drafting Number: LLS 22-0690 Date: February 18, 2022
Prime Sponsors: Rep. Tipper Bill Status: House Judiciary
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Bill Topic: UNIFORM RESTRICTIVE EMPLOYMENT AGREEMENT ACT

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

This bill regulates restrictive post-employment agreements. The bill will increase state expenditures in FY 2022-23 and may minimally increase state revenue.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$126,357 to the Department of Labor and Employment.

Fiscal Note Status: The fiscal note reflects the introduced bill, as recommended by the Colorado Commission on Uniform State Laws.

Table 1
State Fiscal Impacts Under HB 22-1216

Table with 4 columns: Category, Budget Year FY 2022-23, Out Year FY 2023-24, and a sub-column for General Fund Reserve. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill updates the regulations on agreements between an employer and an employee regarding limitations on work after the existing employment relationship ends. The bill regulates various post-employment agreements that prohibit non-compete agreements for low-wage workers. Finally, the bill adds new procedural requirements to non-compete and restrictive agreements and creates penalties and enforcement mechanisms.

Background

Colorado Commission on Uniform State Laws. The Colorado Commission on Uniform State Laws is charged with working with the national Uniform Law Commission (ULC) to promote uniformity in state laws where uniformity may be deemed desirable and practicable. This is achieved by developing proposed uniform legislation through the ULC that can be adopted by the various state legislatures. Colorado's commissioners are required to be attorneys admitted to practice law in Colorado. Members include six attorneys appointed or reappointed by joint resolution of the General Assembly; any Colorado citizen who is elected as a life member of the ULC (after twenty years of membership); and the Director of the Office of Legislative legal Services, or the Director's designee. The Office of Legislative Legal Services provides assistance to the legislative members of the Colorado Commission in their efforts to enact legislation regarding uniform acts.

State Revenue

To the extent the bill increases civil case filings, state revenue will increase beginning in FY 2022-23. This fee revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures in the Department of Labor and Employment (CDLE) by \$147,920 in FY2022-23 and \$122,568 in FY 2023-24 from the General Fund. Expenditures are shown in Table 2 and detailed below.

Department of Labor and Employment. The bill requires an increase of 1.2 FTE in FY 2022-23 and 1.1 FTE in FY 2023-24 in the Division of Labor Standards and Statistics to implement the bill. The additional staff will draft and distribute notices to employers and employees and investigate employer compliance. Standard operating and capital outlay costs are included, and the first-year costs are prorated for the effective date and General Fund pay date shift.

Department of Law. The department will provide legal advice and counsel during the rulemaking process and regarding CDLE's authority over private employment matters. The total number of additional work hours expected for the department will be under 100 hours. Any additional funds necessary for legal services will be considered in future budget years.

**Table 2
Expenditures Under HB 22-1216**

	FY 2022-23	FY 2023-24
Department of Labor and Employment		
Personal Services	\$106,311	\$95,717
Operating Expenses	\$1,890	\$1,485
Capital Outlay Costs	\$12,400	-
Software Licenses	\$5,756	\$5,756
Centrally Appropriated Costs ¹	\$21,563	\$19,610
Total Cost	\$147,920	\$122,568
Total FTE	1.2 FTE	1.1 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Personnel and Administration. The department will have a minimal increase in workload to review and update existing policies on confidentiality. The workload is absorbable within existing appropriations.

Judicial Department. Trial courts may experience a minimal workload increase to the extent the bill increases civil filings. The increased workload is absorbable within existing appropriations.

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 shown in Table 2.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by a minimal amount. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$18,954 in FY 2022-23 and \$15,444 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Effective Date

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

State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of \$126,357 to the Department of Labor and Employment and 1.2 FTE.

State and Local Government Contacts

Information Technology
Law

Judicial
Personnel

Labor
Regulatory Agencies