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Fiscal Note

Drafting Number:	LLS 23-0182	Date:	February 8, 2023
Prime Sponsors:	Rep. Sirota; Gonzales-Gutierrez Sen. Gonzales; Winter F.	Bill Status:	House Business
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Bill Topic: FAIR WORKWEEK EMPLOYMENT STANDARDS

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

The bill creates new labor standards and requirements related to employee work schedules and wages for employers in the food and beverage establishment, food and beverage manufacturer, and retail establishment sectors. It will increase state expenditures and may increase state revenue on an ongoing basis beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$329,383 to the Department of Labor and Employment.

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

**Table 1
State Fiscal Impacts Under HB 23-1118**

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	Cash Funds	\$329,383	\$426,879
	Centrally Appropriated	\$59,048	\$90,904
	Total Expenditures	\$388,431	\$517,783
	Total FTE	3.0 FTE	4.8 FTE
Transfers		-	-
Other Budget Impacts		-	-

Summary of Legislation

The bill creates new labor standards and requirements for employers in the food and beverage establishment, food and beverage manufacturer, and retail establishment sectors related to employee work schedules and wages.

The Division of Labor Standards and Statistics (DLSS) in the Colorado Department of Labor and Employment (CDLE) is authorized to investigate complaints and aggrieved employees may also bring action in district court.

Background

Using data from the Colorado Labor Market Information Gateway available for the North American Industry Classification System codes that are specified in the bill, there are approximately 326,000 Colorado employees (or 13.9% of the private sector workforce) that are covered by the bill.

State Revenue

The bill may increase state cash fund revenue from employer penalties to the Wage Theft Enforcement Fund. Overall, any revenue is expected to be minimal as the Colorado Wage Act encourages the DLSS to waive most fines assessed against employers if the employer complies with the law. Any revenue from court filing fees is also expected to be minimal.

State Expenditures

The bill increases state expenditures in CDLE by \$388,431 in FY 2023-24 and \$517,783 in FY 2024-25 and ongoing, paid from the Employer Support Fund. Any impact to the Judicial Department is expected to be minimal. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1118

	FY 2023-24	FY 2024-25
Department of Labor and Employment		
Personal Services	\$277,468	\$405,884
Operating Expenses	\$4,050	\$6,480
Capital Outlay Costs	\$33,350	-
Software Licenses	\$14,515	\$14,515
Centrally Appropriated Costs ¹	\$59,048	\$90,904
Total Cost	\$388,431	\$517,783
Total FTE	3.0 FTE	4.8 FTE

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

Department of Labor. The DLSS will respond to complaints under the bill with an estimated 4.8 FTE additional management, investigator, legal, and policy staff, as outlined below.

- **Assumptions.** Based on complaints currently filed under the Healthy Families and Workplaces Act, the fiscal note assumes that the DLSS will receive 60 complaints per year. Of these, 40 complaints will require approximately 50 hours of investigation, and 20 complaints will require the issuance of compliance orders that require follow-up monitoring, estimated to require about 70 hours of investigation. Additionally, it is assumed that the DLSS will conduct 10 systemic investigations of specific employers, where an audit of general compliance with laws is conducted, at about 250 hours of investigation.
- **Personal services.** DLSS requires 1.0 FTE Program Manager to create and manage the new program. It requires 2.8 FTE Compliance Investigator II to process, investigate, and adjudicate complaints of varying complexity, and to issue orders and confirm compliance in more complex cases. It requires 0.3 FTE Administrative Law Judge II to hear and adjudicate appeals in an estimated 10 percent of cases. Finally, it requires Program Assistant and Policy Advisor staff support in the initial year, primarily for the rulemaking and initial program stand-up, that will reduce to a total of 0.7 FTE between the positions on an ongoing basis. Existing legal services resources, provided by the Department of Law, are expected to be sufficient for rulemaking.

Standard operating and capital outlay costs are included for staff, as well as licenses for software used by the division. First-year costs are prorated for the General Fund pay date shift a January 1, 2024, start date, except for the manager and policy positions, which are prorated for a September 1, 2024, start date. See Technical Note.

Judicial Department. Any trial court workload impact is expected to be minimal. Since the DLSS will adjudicate cases administratively, additional case filings in district court will be small in number.

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

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. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Technical Note

The bill is effective January 1, 2024. The fiscal note assumes that the effective date will be modified to allow the department to set up the standards beginning September 1, 2023, following a petition clause timeline, and that the standards will be in effect by January 1, 2024.

Effective Date

The bill takes effect January 1, 2024, and applies to conduct occurring on or after that date.

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$329,383 from the Employer Support Fund to the Department of Labor and Employment and 2.8 FTE.

Departmental Difference

The Department of Labor and Employment requests General Fund be used to enforce the bill's labor standards. The federal Department of Labor has determined that certain spending from the Employer Support Fund is not in compliance with federal law. Until the fund is back into compliance, the CDLE prefers not to make additional expenditures from this fund. The fiscal note assumes that these administrative costs constitute allowable uses of funds in the Employer Support Fund.

State and Local Government Contacts

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