



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 26-121: OVERTIME THRESHOLD FOR AGRICULTURAL EMPLOYEES

Prime Sponsors:

Sen. Rodriguez; Simpson
Rep. Martinez; Winter T.

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Published for: House Third Reading

Drafting number: LLS 26-0800

Version: Third Revised Note

Date: April 15, 2026

Fiscal note status: This revised fiscal note reflects the revised bill.

Summary Information

Overview. This bill requires an agricultural employer to pay an agricultural employee an overtime rate for time worked in excess of 56 hours per work week, with certain exceptions. It also increases penalties for on agricultural employers for wage theft and employee misclassification.

Types of impacts. The bill is projected to affect the following areas on a one-time basis:

- Minimal State Revenue
- Minimal State Workload

Appropriations. No appropriation is required.

**Table 1
State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

Beginning January 1, 2027, this bill requires an agricultural employer to pay an agricultural employee an overtime rate for time worked in excess of 56 hours per work week, except for an agricultural employee who is:

- principally engaged in the range production of livestock on the open range;
- a decision-making manager employed by an agricultural employer; or
- a family member of a family owner of an agricultural employer.

The bill adds definitions for “decision-making manager” and “family member” to the statute regarding overtime wages for agricultural employees. Finally, the bill repeals obsolete requirements related to previous rulemaking completed by the Director of the Division of Labor Standards and Statistics in the Department of Labor and Employment (CDLE) concerning overtime and maximum hours protections to agricultural employees.

The bill increases penalties for agricultural employers that fail to pay the wages of their employees or misclassify their employees at least three times in a five-year. For the first three times in a five-year period that an agricultural employer fails to pay their employees without a good faith legal justification, the amount of penalty may be increased by 10 percent. For an agricultural employer that commits a third or subsequent willful violation of employee misclassification law within five years, the fine is increased by \$20,000. If the third or subsequent willful violation is not remedied within 60 days after the division’s finding, the fine is increased by \$40,000.

Background

Senate Bill 21-087

[Senate Bill 21-087](#) established overtime pay for agricultural workers. As of January 1, 2025, overtime for agricultural workers begins after 48 hours per week, or after 56 hours for up to 22 peak weeks for highly seasonal employers.

Wage Theft

Under current law, an employer that fails to pay wages to employees is subject to a fine of not more than \$50 per day per employee from the date that the wages first became due and payable. The amount of penalty is determined by the division director or hearing officer.

Employee Misclassification

An employer who misclassifies employees, is subject to a penalty of \$5,000 for a first willful violation, up to a penalty of \$10,000 if the violation is not remedied within 60 days. For a second willful violation within five years, the employer is subject to a penalty of \$25,000, up to \$50,000 if not remedied within 60 days.

State Revenue

The bill potentially increases state revenue from increased penalties for unpaid wages or employee misclassification in specific situations involving agricultural workers. Revenue increases are assumed to be minimal due to the bill's restrictive provisions for when higher penalties may be imposed and the CDLE's ability to waive penalties to encourage the employer to pay the employee all wages and penalties.

State Expenditures

The CDLE will have an increase in workload to update the Colorado Overtime and Minimum Pay Standards (COMPS) Order to reflect the changes in the bill, which will require review, consideration, and incorporation of stakeholder feedback, and to amend existing public guidance and outreach materials to reflect the bill changes. CDLE staff will also be required to respond to queries from employers, workers and workers' advocates. Wage and employee classification investigators will also have a minimal workload increase to investigate and track situations where higher penalties involving agricultural workers may apply, which may be offset by fewer cases if the higher penalties act as a deterrent. This workload can be accomplished within existing appropriations.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Agriculture	Labor
Judicial	Law

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.