



**Colorado
Legislative
Council
Staff**

HB16-1299

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-1043
Prime Sponsor(s): Rep. Wist
Sen. Jahn

Date: June 21, 2016
Bill Status: Postponed Indefinitely
Fiscal Analyst: Chris Creighton (303-866-5834)

BILL TOPIC: ATTORNEY FEES & COSTS IN EMPLOYMENT DISCRIMINATION CASES

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue General Fund and Cash Funds	Potential minimal net revenue change.	
State Expenditures General Fund and Cash Funds	Potential workload and expenditure decrease.	
TABOR Impact		Potential minimal net change.
Appropriation Required: None.		
Future Year Impacts: Ongoing potential minimal net revenue change and expenditure reduction.		

Note: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

Under current law, if a plaintiff brings an employment discrimination case that the court finds to be frivolous the court may award attorney's fees and reasonable costs to the defendant. This bill lowers the standard for awarding fees and costs to the prevailing defendant in cases where the claim lacks substantial merit. A claim lacks substantial merit if it is pursued in bad faith, or when a reasonable person with knowledge of the facts does not believe the claim is likely to succeed.

State Revenue

For FY 2016-17, this bill potentially decreases state cash fund revenue and increases state General Fund revenue, resulting in a minimal net revenue change as discussed below.

Filing Fees. By lowering the standard for awarding attorneys fees and costs in employment discrimination cases this bill potentially decreases the number of employment discrimination lawsuits. Under the new standard, plaintiffs may choose not to file an employment discrimination lawsuit if they believe that the case potentially lacks substantial merit, which would decrease cash fund revenue from filing fees in Judicial Department. Any decrease in employment discrimination cases is expected to be minimal.

Awards for attorney's fees and costs. This bill also increases the likelihood that a plaintiff will be required to pay for the defendants attorney fees and costs by making it easier to prove that the case was pursued in bad faith. Decreasing this standard potentially increases state General Fund revenue received from plaintiffs that pursue employment discrimination lawsuits lacking substantial merit against state agencies.

TABOR Impact

This bill potentially decreases state revenue from filing fees and increases awards for attorneys fees and costs to state agencies resulting in a minimal revenue net change, which could increase or reduce the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. TABOR refund obligations are not expected for FY 2016-17.

State Expenditures

For FY 2016-17, this bill decreases state expenditures and workload costs as discussed below.

Judicial Department. The trial courts in the Judicial Department may experience a decrease in employment discrimination case filings. Any decrease in caseload is expected to be minimal and will not result in the need to reduce appropriations.

State agencies. This bill potentially decreases department workload and costs associated with employment discrimination cases. Under the new standard, fewer employment discrimination cases may be filed. Few, if any, employment discrimination cases are expected against state agencies and any decrease in workload or costs is not expected to result in a decrease in appropriations.

Local Government Impact

Local governments could experience a decrease in employment discrimination cases, which would decrease workload and costs associated with those cases. Increased revenue could be received from any plaintiff found to have pursued the case without substantial merit under the new lower standard established by this bill. Employment discrimination cases against local governments are uncommon and these impacts are expected to be minimal.

Effective Date

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on March 28, 2016.

State and Local Government Contacts

All Departments
Labor

Information Technology
Personnel

Judicial