



**Colorado
Legislative
Council
Staff**

HB16-1432

FISCAL NOTE

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

Drafting Number: LLS 16-1221
Prime Sponsor(s): Rep. Winter

Date: April 11, 2016
Bill Status: House Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: PERSONNEL FILES EMPLOYEE INSPECTION RIGHT

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	Potential increase.	
State Expenditures	Minimal workload increase.	
TABOR Impact	Potential increase.	
Appropriation Required: None.		
Future Year Impacts: Ongoing potential increase in state revenue and minimal workload increase.		

Summary of Legislation

This bill requires that an employer, at least annually, permit a requesting current or former employee to inspect and obtain a copy of his or her personnel file. Reviews are to occur at the employer's office at a time convenient to both parties. An employer may restrict access to files only in the presence of a person responsible for managing personnel data and may require that the employee pay the reasonable costs for any duplication of documents. The bill excludes the following documents from the definition of personnel file:

- records required to be placed in a separate file by federal or state law or rule;
- records pertaining to confidential reports from previous employers of the employee;
- records relating to an active disciplinary investigation by the employer or a regulatory agency, or an active criminal investigation; and
- any information in a document or record that identifies any person who made a confidential accusation against the employee where both the informant and the employee continue to work for the same employer.

The bill clarifies that it does not create or authorize a private cause of action.

Background

The majority of state and local employers have informal and formal rules and policies that allow current and former employees to request records. In addition, many personnel records for current and former government employees may be requested under the Colorado Open Records Act (CORA). Under CORA, government agencies are already authorized to collect fees for duplication of records. Most state agencies indicated that requests are relatively infrequent and that when fees are assessed, the agency charges \$0.25 per page after the first 25 pages.

Assumptions

As current and former governmental employees are already permitted access to most personnel records under CORA, this analysis assumes that workload for governmental agencies does not change under HB16-1432.

State Revenue

Beginning in FY 2016-17, this bill may increase revenue if a state agency chooses to assess higher fees for making copies of personnel records than it currently does under CORA. This analysis assumes any increase in revenue is minimal. Depending on the state agency, any fees received would be credited to either the General Fund or a cash fund specific to that agency.

TABOR Impact

This bill may increase state revenue from fees, which would increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

Beginning in FY 2016-17, the Colorado Department of Labor and Employment will respond to any complaints of noncompliance by private sector employers. This analysis assumes that the increase in workload is minimal and can be accomplished within existing appropriations.

Local Government and Statutory Public Entity Impact

Similar to the state, the extent that these employers choose to assess higher fees for copies, revenue will increase. This impact is assumed to be minimal.

Effective Date

The bill takes effect January 1, 2017, if no referendum petition is filed.

State and Local Government Contacts

All Departments

Counties

Municipalities

Special Districts