



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**HB 19-1101**

# FINAL FISCAL NOTE

<b>Drafting Number:</b>	LLS 19-0694	<b>Date:</b>	May 7, 2019
<b>Prime Sponsors:</b>	Rep. Ransom Sen. Smallwood	<b>Bill Status:</b>	Postponed Indefinitely
		<b>Fiscal Analyst:</b>	Clare Pramuk   303-866-2677 clare.pramuk@state.co.us

**Bill Topic:** PROHIBIT DISCRIMINATION LABOR UNION PARTICIPATION

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue ( <i>minimal</i> )	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure ( <i>minimal</i> )	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Statutory Public Entity

This bill would have prohibited mandatory employee membership in a labor organization, with certain exceptions, and created penalties. It would have minimally increased state and local revenue from fines and fees, and increased workload. It may have also impacted statutory public entities that require union participation. These impacts would have been ongoing.

**Appropriation  
Summary:** No appropriation is required.

**Fiscal Note  
Status:** The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

## Summary of Legislation

This bill prohibits an employer from requiring employee membership in a labor organization as a condition of employment and from requiring employees to pay dues or fees to a labor organization, charity, or other third party. Standing agreements that violate these prohibitions are made void. The bill also defines all-union agreements as unfair labor practices. Violations by employers are considered unclassified misdemeanors and are subject to civil actions and criminal penalties of a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Civil remedies include all damages and attorney fees resulting from the violation. The Attorney General or the district attorney of each judicial district is responsible for investigating complaints and taking actions to enforce the statute. Federal employers and employees, as well as those covered by the Railway Labor Act, are exempt from the bill.

## Background and Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. House Bill 19-1101 creates a new unclassified misdemeanor for employers who require participation with or payment to a labor organization, charity, or other third party as a condition of employment, punishable by a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Under current law, violation of any

section of the Labor Peace Act constitutes a misdemeanor punishable by a fine. The fine for Labor Peace Act violations ranges from \$50 to \$100 for the first convicted offense, and \$100 to \$500 for subsequent offenses, together with costs. In the last three years, there have been no charges or convictions under the Labor Peace Act. The Department of Labor and Employment has received four complaints related to unfair labor practices over the last three calendar years. There have been no requests to revoke an all-union agreement or instances in which the director has declared an all-union agreement void.

According to the Bureau of Labor Statistics, Colorado had 238,000 union members in 2017, with another 35,000 workers represented by a union on their main job or covered by an employee association or contract while not being members themselves.

## State Revenue

Beginning in FY 2019-20, this bill may minimally increase state cash fund revenue from criminal fines and court and administrative fees.

**Criminal fines.** The bill creates a misdemeanor penalty punishable by a fine of up to \$1,000, credited to the Fines Collection Cash Fund in the Judicial Department. The fiscal note assumes a high rate of compliance by employers and that any increase in state cash fund revenue will be minimal.

**Court and administrative fees.** To the extent new cases go to court, fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court, and may include such items as genetic testing, victim compensation, and late fees, among others. There is also a \$50 per offender per month probation supervision fee. Some fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

## State Expenditures

Beginning in FY 2019-20, this bill may increase workload in the Department of Law, which is responsible for investigating and prosecuting complaints associated with employer violations, and in the Department of Labor and Employment, to answer questions from employers about the law. To the extent that the bill increases court filings for employer complaints, the bill may also increase the workload of the Judicial Department. Because the fiscal note expects a high level of employer compliance, however, it is assumed that these workload increases will be minimal and can be accomplished within existing appropriations.

## Local Government Impact

This bill affects local governments in the following ways:

**Local government workload.** This bill may increase workload for district attorneys, who are charged with investigating and prosecuting complaints associated with employer violations. It may increase workload for the Denver County Court, managed and funded by the City and County of Denver, to try new misdemeanor cases. Probation services in the Denver County Court may also experience a minimal increase in workload to supervise persons convicted under the bill. Counties that currently use collective bargaining agreements will be minimally impacted as they make necessary changes to conform with the law. It is assumed these costs will be minimal.

**Criminal fine revenue.** This bill may increase revenue by a minimal amount for Denver City and County. Under the bill, an offender may be fined up to \$1,000.

**Court and administrative fees.** Similar to the state, court and administrative fee revenue may increase. In the City and County of Denver, probation fee revenue may increase by \$50 per month, per offender. Revenue may increase by a minimal amount as a result of any court and administrative fees shared with the state.

**County jail expenditures.** To the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under the bill, a court may sentence an offender to jail for up to 90 days. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93. It is assumed that the impact of this bill will be minimal for county jails.

## Statutory Public Entity Impact

Statutory public entities, insofar as these entities require labor union participation, will be minimally impacted by the bill. The Regional Transportation District (RTD), for example, currently deducts compulsory union dues from their employees' salaries. The fiscal note assumes that the workload impact will occur as these entities repeal compulsory union membership in accordance with the bill and make updates to their payroll system. Should RTD repeal compulsory union membership, it may no longer be in compliance with federal requirements and may lose federal grant funds as a result.

## Effective Date

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on January 29, 2019.

## State and Local Government Contacts

Corrections  
District Attorneys  
Higher Education  
Judicial - Civil / Administration  
Labor  
Local Affairs  
Personnel  
Regulatory Agencies  
Special Districts

Counties  
Education  
Information Technology  
Judicial - Criminal  
Law  
Municipalities  
Regional Transportation District  
School Districts