

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING THE CREATION OF PRESUMPTIONS RELATED TO AN ESSENTIAL WORKER WHO CONTRACTS COVID-19 FOR PURPOSES RELATED TO WORKERS' COMPENSATION.

Prime Sponsors: Senator Rodriguez
Representative Mullica

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Phone: 303-866-4960
Date Prepared: June 9, 2020

Appropriation Items of Note

Appropriation Required, Amendment in Packet

General Fund Impact

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 06/05/20.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Based on further communication with the Department of Personnel, JBC staff believes that costs for this bill in FY 2021-22 and subsequent years may be spread across additional funding sources by adjusting the reserve requirement for the workers compensation program from 10.0 percent to 30.0 percent. Because of this, staff estimates that the General Fund impact of this bill in FY 2021-22 and subsequent years will be approximately 40.0 percent of the total calculated in the Legislative Council Fiscal Note or up to approximately \$2,649,000. The balance of the estimated cost would be from other funding sources. Legislative Council Staff concurs with this assessment.

The Senate Finance Committee Report (06/08/20) includes amendments to the bill, however, Legislative Council Staff and JBC Staff agree that the committee amendments do not change the fiscal impact of the bill.

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.002	Staff-prepared appropriation amendment
J.003	Bill Sponsor amendment - does not change fiscal impact
L.011/J.004	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.002 Staff has prepared amendment **J.002** (attached) to add a provision appropriating \$4,248,823 General Fund to the Department of Personnel for FY 2020-21.

J.003 Bill Sponsor amendment **J.003** (attached) adds a "no appropriation" clause, indicating that the General Assembly has determined that this bill can be implemented within existing resources.

Legislative Council Staff and Joint Budget Committee Staff concur that bill sponsor amendment J.003 does not change the fiscal impact of the bill. Staff estimates that the bill will result in additional costs to the Workers' Compensation Program at the level outlined in the Legislative Council Staff Fiscal Note dated June 5, 2020. The FY 2020-21 Long Bill, as adopted by both the House and Senate, includes Workers' Compensation Program common policy cost allocations to state agencies to fund administrative costs, pay claims, and provide a claims reserve of \$3.4 million and a total program reserve of \$5.4 million. FY 2020-21 reserves are anticipated to be insufficient to cover the cost of this bill. Therefore, if the bill does not include an appropriation, supplemental General Fund appropriations will be required to cover FY 2020-21 costs that exceed the reserve. See the *Related Budget Information* below for additional information.

L.011 and J.004

Bill Sponsor amendment **L.011** (attached) removes corrections officers from coverage under the provisions of the bill. **Legislative Council Staff and JBC Staff concur that this amendment reduces the total fiscal impact of the bill to \$5,232,858.** Of this amount, \$2,093,143 would be needed in FY 2020-21 and requires an appropriation from the General Fund. **Amendment J.004** (attached) adds a provision appropriating \$2,093,143 General Fund to the Department of Personnel for FY 2020-21. The balance of \$3,139,715 would be required in FY 2021-22 and is estimated to include \$1,255,886 from the General Fund, with the remainder from other sources if the reserve requirement for the workers compensation program is increased to approximately 20.0 percent from the current 10.0 percent.

The Committee may adopt: J.002 OR J.003 OR L.011 with J.004. It should not adopt more

than one of the "J" amendments.

Points to Consider

General Fund Impact

The Joint Budget Committee has proposed a budget package for FY 2020-21 based on the following:

- the May 12, 2020, Office of State Planning and Budgeting revenue forecast;
- a school finance bill placeholder for a reduction of \$723.8 million General Fund;
- a placeholder for the reduction of \$202.0 million General Fund through one or more non-JBC package bills; and
- an adjusted statutory General Fund reserve percentage of 3.84 percent equal to \$402.0 million.

This bill requires a General Fund appropriation of \$4,248,823 for FY 2020-21, thereby decreasing the proposed fiscal year-end General Fund reserve or increasing the proposed placeholder reductions by the same amount.

An appropriation of \$6,373,235 will be required in FY 2021-22, including an estimated \$2,549,294 from the General Fund.

Amendment J.003 does not change these impacts. Amendments L.011/J.004 reduce but do not eliminate the bill's General Fund impact.

Related Budget Information

As described in the Legislative Council Staff Fiscal Note dated June 5, 2020, the State self-insures for workers' compensation claims. This program covers all state agencies, apart from some institutions of higher education.¹ Rates charged to state agencies are based on claims data through the most recent actual year. Thus, FY 2020-21 rates charged to state agencies, and related appropriations, are based on FY 2018-19 actual data and do not incorporate the impact of COVID-19. The FY 2020-21 Long Bill, as passed in both the House and Senate, includes workers' compensation appropriations for state agencies that are intended to cover FY 2020-21 claims and operations and allow for a total reserve of \$5.4 million, including a \$3.4 million (10.0 percent) claims reserve in the Workers' Compensation Account.

- Based on Department of Personnel estimates, the additional costs that could result from this bill (up to \$4.2 million in FY 2020-21 and up to \$6.4 million in FY 2021-22) are expected to exceed the claims reserve in the Workers' Compensation Account.

¹The State Community College System, Metropolitan State University of Denver, Colorado State University-Pueblo, Colorado State University- Global Campus, and the Colorado School of Mines participate; other state institutions of higher education do not.

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JBC Staff Analysis

- Any reserve funds spent in FY 2020-21 will be included in state agency common policy cost allocations for FY2021-22 or FY 2022-23, in order to replenish the reserve.
- FY 2021-22 costs for this bill may be addressed by increasing assessments on state agencies to provide reserves adequate to address additional workers' compensation costs. This would spread these costs to additional funding sources. The Department of Personnel estimates that if out-year costs of the bill were addressed in this way, approximately 40.0 percent of the costs would be from the General Fund.