



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 21-0136	Date:	June 14, 2021
Prime Sponsors:	Rep. Kennedy Sen. Gonzales	Bill Status:	Signed into Law
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Bill Topic: **ADDITIONAL LIABILITY UNDER RESPONDEAT SUPERIOR**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill allows a plaintiff in a civil tort claim to bring additional claims against the employer or principal arising out of the same incident as the one involving an employee. It will minimally increase state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Summary of Legislation

In 2017, the Colorado Supreme Court held that when an employer admits liability for the certain actions of its employee, the plaintiff cannot assert additional claims against the employer arising out of the same incident. This bill allows a plaintiff in a civil tort claim to bring additional claims against the employer or a principal arising out of the same incident as the one involving an employee when an employer or principal admits liability.

State Revenue

The bill may increase civil case filings in the Judicial Department by a minimal amount. Civil filing fee revenue is subject to TABOR.

State Expenditures

This bill may increase workload and expenditures in the Department of Law, the Department of Personnel and Administration (DPA), the Judicial Department, as detailed below.

Department of Law. This bill may increase the number of cases in which state employees are defendants. However, the impact to the state is expected to be minimal as, under the Colorado Governmental Immunity Act, public entities are immune from these claims and claims against an individual are only allowed in certain circumstances.

Department of Personnel and Administration. If a significant number of claims arise, the DPA may require additional appropriations to maintain sufficient funding in the Risk Management Fund. The Risk Management Program's actuary will capture the claim costs as well as external legal costs in the actuarial analysis of the state's experience, and this analysis will form the basis for any adjustments through the annual budget process.

Judicial Department. This bill may increase civil case filings in the trial courts, as the ability to bring additional claims for the same incident may encourage plaintiffs to file. This is expected to be a minimal increase and no change in appropriations is required.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Local Government

Similar to the state, if the legislation increases claims filed against local government employees, costs will increase for attorney's fees, damages, and/or insurance or liability coverage costs.

Effective Date

The bill was signed into law by the Governor on May 17, 2021, and takes effect September 7, 2021, assuming no referendum petition is filed.

State and Local Government Contacts

Counties	Judicial	Labor
Law	Municipalities	Personnel
Regulatory Agencies	School Districts	Special Districts