



Legislative Council Staff

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Final Fiscal Note

Drafting Number: LLS 22-1056 **Date:** July 11, 2022
Prime Sponsors: Sen. Fenberg; Moreno **Bill Status:** Signed into Law
Rep. Esgar **Fiscal Analyst:** Erin Reynolds | 303-866-4146
Erin.Reynolds@state.co.us

Bill Topic: **COLLECTIVE BARGAINING FOR COUNTIES**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" 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

The bill grants county employees the right to organize under a collective bargaining unit in counties with populations over 7,500, not including city and counties. The Department of Labor and Employment is required to manage petitions, elections, and enforcement related to county collective bargaining. Beginning in FY 2022-23, the bill increases state and local government expenditures on an ongoing basis, and may minimally increase state revenue.

Appropriation Summary: For FY 2022-23, the bill requires and includes an appropriation of \$326,092 to the Department of Labor and Employment.

Fiscal Note Status: The final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 22-230

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$326,092	\$466,328
	Centrally Appropriated	\$93,624	\$125,751
	Total Expenditures	\$419,716	\$592,079
	Total FTE	2.8 FTE	4.3 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$48,914	\$69,949

Summary of Legislation

The bill grants county employees in counties with populations over 7,500 the right to organize and engage in the collective bargaining process, as well as the right to refrain from these activities.

Applicability. The bill applies to 38 of the state’s 64 counties. City and counties are excluded, which includes Denver and Broomfield. Counties with populations under 7,500 are also excluded, which as of writing include the following 24 counties: Baca, Bent, Cheyenne, Conejos, Costilla, Crowley, Custer, Dolores, Gilpin, Hinsdale, Huerfano, Jackson, Kit Carson, Kiowa, Lake, Lincoln, Mineral, Ouray, Phillips, Rio Blanco, Saguache, San Juan, Sedgwick, and Washington counties.¹ Municipalities, special districts, school districts, county hospitals, and political subdivisions operating transit systems are excluded. County employees eligible to form bargaining units exclude confidential, managerial, executive, and temporary employees (who work less than 90 days in a calendar year).

Exclusive representatives. “Exclusive representative” is defined to mean the employee organization certified or recognized as the representative of county employees in a bargaining unit; the county and the exclusive representative have the authority and obligation to collectively bargain in good faith.

County employer requirements. County employers are required to:

- annually inform county employees in a bargaining unit who are represented by an exclusive representative of their rights;
- give the exclusive representative reasonable access to county employees at work;
- provide quarterly reporting of employee data to the exclusive representative; and
- make payroll deductions for voluntary membership dues and other authorized payments (with cancel or change requests managed by the exclusive representative).

Unless otherwise agreed to by a county in a collective bargaining agreement, nothing in the bill impairs a county from carrying out county business. Nothing in the bill prevents a county commissioner from carrying out their duties or prevents a county from convening or engaging discussions with employees.

Division of Labor Standards and Statistics. The Director of the Division of Labor Standards and Statistics in the Department of Labor and Employment (CDLE) is required to interpret, apply, and administer the collective bargaining process for county employers through rulemaking, hearings, and appeals. The CDLE must establish procedures for the designation of appropriate bargaining units; the selection, certification, and decertification of exclusive representatives; and the filing, hearing, and determination of complaints of unfair labor practices.

Exclusive representatives—petition and election process. Beginning July 1, 2023, the CDLE must certify an employee organization as the exclusive representative of a county employee bargaining unit once majority support is established through a secret ballot election. Employee organizations in existence prior to this date and established through majority support must be deemed certified. The bill outlines the process for elections, related timelines, and required hearings where disputes among exclusive representation petitioners exists. The bill also outlines timelines and procedures for objections to election conduct and the process for decertification of exclusive representation.

¹ State Demography Office (DOLA), County Population Spreadsheets: <https://demography.dola.colorado.gov/assets/html/county.html>.

Collective bargaining between a single county and an exclusive representative of more than one bargaining unit of county employees must be consolidated upon request of the county.

Collective bargaining agreements. An agreement negotiated between an exclusive representative and a county, with the approval of the Board of County Commissioners, constitutes the collective bargaining agreement between the parties. Agreements must be for a term of at least 1 year and no more than 5 years. The bill details what disciplinary and grievance processes may and may not be included in an agreement. The exclusive representative and county must make a good faith effort to complete negotiations so that the terms of a collective bargaining agreement may be effectively considered by a Board of County Commissioners during the adoption of the county budget. The Board of County Commissioners is not obligated to make an appropriations of funds necessary to fund the terms of a collective bargaining agreement reached after October 15 of the year prior to the budget year if the representative has not been certified prior to June 1 of the current year, unless otherwise agreed to by both parties.

Impasse resolution and fact finding. If an impasse arises on one or more issues during the negotiation of a collective bargaining agreement, the exclusive representative and the county shall engage in and share the costs for the dispute resolution process established in the bill or an alternative procedure established by mutual agreement. If the parties remain at an impasse following mediation, either party may request fact finding in accordance with rules promulgated by the CDLE. The CDLE is required to maintain a roster of qualified fact finders with credentials outlined in the bill. Unless the parties otherwise agree, the fact finder will make a recommendation to accept the final offer of the exclusive representative or the final offer of the county on each issue in dispute. In arriving at a recommendation, the fact finder must consider financial ability of the county employer to meet costs, public interest and welfare, comparable community's salary and benefits, and other factors outlined in the bill.

Enforcement authority. The CDLE and hearing officers have the authority to enforce the bill through appropriate administrative remedies, actual damages related to employee organization dues, back pay, including benefits, reinstatement of the county employee, other remedies to address any loss suffered from unlawful county conduct, and declaratory or injunctive relief or provisional remedies, including temporary restraining orders or preliminary injunctions. The CDLE may request the appropriate district court to enforce orders.

Publicly available information. The CDLE is required to post and maintain on its website the current versions of this bill (Article 3.3), rules, all hearing officer decisions and orders, all final judgments and written decisions of fact finders, and all administrative determinations of certification and decertification of exclusive representatives.

Unfair labor practices. The bill outlines unfair labor practices as they relate to county employers, including anti-discrimination provisions and precluding use of public funds to support or oppose an employee organization, among others. Employee organizations may not interfere in the selection process, nor fail to fairly represent a public employee, and must not threaten, facilitate, support, or cause a county employee to participate in a strike, work stoppage or slowdown, group sick out, or an action that widely disrupts day-to-day county functions. Aggrieved parties may file a claim with the CDLE.

Background

State collective bargaining. [House Bill 20-1153](#) created the Colorado Partnership for Quality Jobs and Services Act which enabled the creation of a collective bargaining system between covered state employees and the executive branch, and required the state to establish a single partnership agreement, which it did with Colorado Workers for Innovative and New Solutions (CO-WINS). The resulting [Colorado Partnership Agreement](#) went into effect on November 18, 2021.

About 26,000 state employees are covered by the act, including some working for institutions of higher education as classified employees. The fiscal note for HB 20-1153 included \$6.6 million for 47.2 FTE, including human resources (HR) staff and attorneys, both directly for large state agencies and centrally for the smaller state agencies, with legal services provided for State Personnel Board matters. Of this amount, 5.0 FTE were allocated to the CDLE to investigate and adjudicate claims assuming it would handle approximately 93 unfair practices disputes annually, with 84 appeals per year.

Since the passage of the HB 20-1153, an additional \$8.8 million and 5.0 FTE has been appropriated or is in the pending FY 2022-23 Long Bill for costs stemming from the state's collective bargaining agreement, including:

- \$1.0 million and 1.0 FTE for a pay equity study;
- \$1.4 million and 4.0 FTE for an employee tuition reimbursement program and additional Colorado State Employee Assistance Program support staff;
- \$5.5 million to increase to shift differentials and on-call pay; and
- \$0.9 million to create a minimum wage standard.

In addition, a 3.0 percent across-the-board salary increase was negotiated for state employees for FY 2022-23 through the agreement at a cost of \$75.3 million; however, this same percentage increase was paid to all state employees the prior year, prior to the agreement going into effect.

Assumptions

Similar to the fiscal note for HB 20-1153, this fiscal note has included only the initial administrative staff required by CDLE and applicable counties to engage in the collective bargaining process with an initial exclusive representative. The fiscal note assumes that county employees will begin engaging in the collective bargaining process immediately and that each county will require its own staff to support and engage in collective bargaining with their employees.

The fiscal note has not made assumptions about potential salary and benefit increases negotiated under future collective bargaining agreements since these amounts are speculative and may have been incurred without future agreements. County employers will be required to share public employee data with the exclusive representative, which also may require additional staff and information technology processes not currently included in the fiscal note. Finally, no assumption has been made about the funding source for expenditures, as counties will have differing resources available.

State Revenue

To the extent additional civil cases related to collective bargaining are filed with the trial courts, filing fee revenue to the Judicial Department will increase. This revenue is subject to TABOR.

State Expenditures

The bill increases state General Fund expenditures in the CDLE by about \$420,000 in FY 2022-23 and \$590,000 in FY 2023-24 and ongoing. Workload may minimally increase in the Judicial Department. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 22-230**

	FY 2022-23	FY 2023-24
Department of Labor and Employment		
Personal Services	\$220,582	\$266,949
Operating Expenses	\$3,915	\$4,455
Capital Outlay Costs	\$24,800	-
Legal Services	\$59,142	\$177,426
Travel Costs	\$3,263	-
Mailings	-	\$3,108
Software Licenses	\$14,390	\$14,390
Centrally Appropriated Costs ¹	\$93,624	\$125,751
FTE – Personal Services	2.5 FTE	3.3 FTE
FTE – Legal Services	0.3 FTE	1.0 FTE
Total Cost	\$419,716	\$592,079
Total FTE	2.8 FTE	4.3 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Labor and Employment. Costs will increase for the Division of Labor Standards and Statistics in the CDLE to administer the collective bargaining process through rulemaking, elections, and hearings.

- **Staff.** The division requires a total of 3.3 FTE on an ongoing basis, including 1.2 FTE Program Management, 0.8 FTE Compliance Investigator, 0.5 FTE Administrative Law Judge, and 0.8 FTE Program Assistant beginning in FY 2022-23. First-year staffing costs are prorated for the General Fund pay date shift, assume the primary program manager and assistant will begin July 1, 2022, the remainder of staff will begin January 1, 2023, and that an additional program manager is required for program implementation. Standard capital outlay costs are included.
- **Legal services.** The CDLE will have costs for 600 hours in FY 2022-23 and 1,800 hours in FY 2023-24 for legal services provided by the Department of Law at a rate of \$98.57 per hour. This is equivalent to 0.3 FTE and 1.0 FTE respectively in the Department of Law.

- **Travel, mailing, and licenses.** Beginning in FY 2023-24, travel costs assume four overnight trips and four day trips related to investigations. Mailing costs assume 1,554 mailings per year at a cost of \$2.00 per mailing. All staff requires computer licenses at \$2,878 per year beginning in FY 2022-23.

Judicial Department. The bill may increase workload in the trial courts of the Judicial Department to the extent that agency actions are appealed through judicial review. Additionally, workload will increase to the extent that the CDLE or any party requests a district court to enforce orders, or seek temporary relief and restraining orders. No change in appropriations is required.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills rather than in this bill. These costs are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill will increase the General Fund reserve by the amounts shown in Table 1.

Local Governments

The bill will increase staffing costs in 37 counties by up to \$32.1 million starting as early as FY 2022-23. These costs are shown in Table 3 and detailed below.

Applicable counties. The bill applies to 38 counties. Adams County is excluded from this analysis as it has authorized collective bargaining matching the scope of the bill. While Pueblo and Las Animas counties have authorized collective bargaining, the bill permits variations from current agreements.

Table 3
Collective Bargaining Administrative Costs for Counties

County Size	Number of Counties	Per County Staffing Costs	Total Staffing Costs by County Size
Large Counties	9	\$2,144,950	\$19,304,550
Medium Counties	25	\$436,892	\$10,922,290
Small Counties	3	\$100,000	\$300,000
		County Total	\$30,526,840

Administrative costs. The fiscal note assumes that all counties will begin hiring legal and human resources staff with expertise in labor law and benefit plan administration to prepare for, negotiate, manage, and renew collective bargaining agreements. Some counties may delay hiring until employee interest in organizing a collective bargaining unit is expressed.

Per county staffing costs represent the average cost for all counties depending on their size as follows:

- large counties include the 10 urban counties that have over 150,000 in population, excluding Adams County;
- medium counties include 25 counties with a population between 10,000 and 150,000; and
- small counties include the 3 remaining counties with populations between 7,500 and 10,000.

Mediation and fact finding. Costs for mediation and fact finding may occur in future years during collective bargaining negotiations, to be shared by the county and the exclusive representative. These costs are initially estimated at \$100,000 for large counties and \$50,000 for small counties.

Salary and benefits. As discussed in the Assumptions section, the fiscal note does not estimate potential salary or benefit increases resulting from collective bargaining agreements. For informational purposes, the fiscal note includes the total FTE and total salary for a sample of counties in Table 4.

Table 4
Sample of County Public Employees' Total Salaries

County (Population)	Sheriff's Departments		Human Services Departments		Public Works Departments	
	FTE	Total Salaries FY 21-22	FTE	Total Salaries FY 21-22	FTE	Total Salaries FY 21-22
Larimer (356,938)	514	\$54,934,580	464	\$37,133,217	119	\$12,267,668
Weld (323,763)	463	\$49,082,729	374	\$30,712,000	171	\$16,914,820
Montrose (42,765)	99	\$8,374,165	84	\$5,555,985	62	\$5,013,579
Summit (30,983)	109	\$10,853,510	22	\$2,129,779	73	\$7,008,615
Yuma (10,063)	23	\$1,401,533	17	\$1,112,374	50	\$2,940,489

Effective Date

The bill was signed into law on May 27, 2022, and takes effect July 1, 2023, except that Section 8-3.3-106, C.R.S., in Section 2 and Sections 3 through 5 of this act take effect July 1, 2022.

State Appropriations

For FY 2022-23, the bill requires and includes a General Fund appropriation of \$326,092 to the Department of Labor and Employment, and 2.5 FTE. Of this amount, \$59,142 is reappropriated to the Department of Law with 0.3 FTE.

State and Local Government Contacts

Counties Judicial Labor and Employment Law

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.