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Final Fiscal Note

Drafting Number: LLS 23-0302 **Date:** August 22, 2023
Prime Sponsors: Sen. Hansen; Fenberg **Bill Status:** Signed into Law
Rep. Duran; Bird **Fiscal Analyst:** Matt Bishop | 303-866-4796
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Bill Topic: **LABOR REQUIREMENTS FOR ENERGY SECTOR CONSTRUCTION**

Summary of Fiscal Impact:

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

The bill requires energy sector public works projects to comply with apprenticeship and prevailing wage requirements. It increases state revenue and expenditures beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires and includes an appropriation of \$108,401 to the Department of Labor and Employment.

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

Table 1
State Fiscal Impacts Under SB 23-292

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$108,401	\$81,219
	Centrally Appropriated	\$36,679	\$32,947
	Total Expenditures	\$145,080	\$114,166
	Total FTE	1.0 FTE	1.0 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$16,260	\$12,183

Summary of Legislation

The bill creates a category of public works projects called energy sector public works projects, which consist of projects that generate, transmit, or distribute electricity or natural gas, and are built by a public utility with some public funding or approved by a cooperative electric association. These projects must comply the apprenticeship and prevailing wage requirements established by [Senate Bill 19-196](#). The bill specifies the parameters by which projects must comply and exceptions from these requirements, which include projects supported by federal funds and those that include a project labor agreement. The bill also applies these labor standards to certain other state projects.

The lead contractor for any applicable project must certify to the Department of Labor and Employment (CDLE) that the contractor and any subcontractors are in compliance with the bill.

Any contract that does not include the required provisions is ineligible for state funding or approval by the Public Utilities Commission (PUC). Any contractor or subcontractor found to be out of compliance is subject to penalties and may be required to refund any rebates or incentives received for the project. The State Auditor must conduct a performance audit of the PUC for energy sector public works projects at least every five years.

The PUC must adopt rules requiring utilities to provide information concerning “best value” employment metrics when submitting annual progress reports for electric resource acquisition. The PUC must then submit a summary report to the General Assembly by December 31 of each year, beginning in 2024.

State Revenue

Apprenticeship and prevailing wage requirements are enforced by CDLE. To the extent that CDLE imposes administrative fines on a contractor for willful violations, state revenue will increase. Fines range from \$5,000 to \$25,000. The fiscal note assumes most contractors and subcontractors will comply with the law and that any revenue generated will be minimal. Also, to the extent that civil filings increase from wage disputes, revenue will increase for the Judicial Department. These revenues are subject to TABOR.

State Expenditures

The bill increases state expenditures in CDLE by \$145,080 in FY 2023-24 and \$114,166 in FY 2024-25, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 23-292**

	FY 2023-24	FY 2024-25
Department of Labor and Employment		
Personal Services	\$87,770	\$76,966
Operating Expenses	\$7,291	\$4,253
Capital Outlay Costs	\$13,340	-
Centrally Appropriated Costs ¹	\$36,679	32,947
Total Cost	\$145,080	\$114,166
Total FTE	1.0 FTE	1.0 FTE

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

Department of Labor and Employment. The department handles approval of apprenticeship programs and enforcement of apprenticeship and prevailing wage requirements, including handling reviews, handling appeals, and investigating complaints. CDLE requires 1.0 FTE to receive craft labor certifications under the bill and address complaints as necessary. In addition, CDLE requires 0.9 FTE in FY 2023-24 only to update guidance, conduct outreach, and update software to facilitate online reporting. These positions are prorated for start dates in December 2023 and January 2024, and account for the General Fund pay date shift. Standard operating, capital outlay, and some specialized software license costs are included.

Department of Personnel and Administration. The bill increases workload for the Office of the State Architect to update contracts and revise policies. This can be accomplished within existing appropriations.

Public Utilities Commission. The bill increases PUC workload to update rules concerning “best value” employment metrics and to verify that submitted projects are in compliance during the approval process. This can be accomplished during the normal course of business, and no change in appropriations is required.

Office of the State Auditor. The bill increases expenditures to perform the required audit every five years. The fiscal note estimates that the first audit will occur in FY 2027-28 and that funding for the audit will be requested through the annual budget process. For informational purposes, the cost of an audit is estimated to be approximately \$400,000.

State utility projects. The bill increases state expenditures for any energy sector public works projects constructed by state agencies, including state institutions of higher education, and certain other state projects to the extent that they are not otherwise required to comply with apprenticeship and prevailing wage requirements. Depending on the funding mechanism for projects, the bill may increase state expenditures or decrease the number of projects that receive state funding.

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—which include employee insurance, supplemental employee retirement payments, indirect costs, and leased space—are shown in Table 2.

Effective Date

The bill was signed into law by the Governor on May 23, 2023, and takes effect January 1, 2024, assuming no referendum petition is filed, and it applies to projects bid on or after that date.

State Appropriations

For FY 2023-24, the bill requires and includes an appropriation of \$108,401 from the General Fund to the Department of Labor and Employment, and 1.0 FTE.

State and Local Government Contacts

Labor and Employment
Personnel and Administration

Law
Regulatory Agencies

Legislative
State Auditor