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Final Fiscal Note

Drafting Number: LLS 24-0124 Date: May 30, 2024
Prime Sponsors: Rep. Duran; Froelich Bill Status: Vetoed by Governor
Sen. Danielson; Kolker Fiscal Analyst: Colin Gaiser | 303-866-2677 colin.gaiser@coleg.gov

Bill Topic: WAGE CLAIMS CONSTRUCTION INDUSTRY CONTRACTORS

Summary of Fiscal Impact: [X] State Revenue [] State Transfer [] Local Government
[X] State Expenditure [] TABOR Refund [] Statutory Public Entity

The bill would have expanded general contractor liability for wage claims involving their subcontractors. It would have increased state expenditures and may have increased state revenue on an ongoing basis beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill would have required an appropriation of \$99,986 to multiple state agencies.

Fiscal Note Status: The final fiscal note reflects the enrolled bill. This bill was vetoed by the Governor on May 17, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 24-1008

Table with 4 columns: Category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

Under the bill, a general contractor enter into a construction contract is liable for all amounts owed to an employee, including the amounts owed by a subcontractor acting under, by, or for the general contractor. The bill requires that a subcontractor that receives a written demand for payment forward the demand to the general contractor within three business days. Subcontractors that fail to do this will be fined \$2,000, paid to the general contractor, plus any other owed amounts.

The bill also allows a general contractor to require that a subcontractor provide pay data and contact information for employees of the subcontractor, plus an affidavit attesting to whether the contractor has participated in a civil or administrative proceeding within the last five years and the outcome of the proceeding.

Assumptions

The Division of Labor Standards & Statistics (DLSS) in the CDLE receives an average of 353 wage complaints per year against construction industry employers. Because the bill will add a second liable party to construction-related wage complaints, the fiscal note assumes the bill will increase the volume of construction complaints by 5 percent, or 18 complaints per year.

The bill will also increase the time required for investigations. Currently, complaint-based investigations in the construction industry take an average of 55 hours. The bill adds a second liable party to these complaints, which adds an estimated 10 percent more work to the investigation. The fiscal note assumes the average investigation time will increase by 5.5 hours.

State Revenue

The bill may increase state revenue from fines and filing fees beginning in FY 2024-25. These revenue streams are subject to TABOR.

Labor and Employment. The bill may increase fine revenue to the Wage Theft Enforcement Fund in the CDLE, as the bill may lead to an increase in the number of complaints. The fiscal note assumes an additional 18 construction-related complaints as a result of the bill. Because the CDLE may waive fines to encourage the employer to pay the employee all wages and penalties, any increase in revenue is expected to be minimal.

Judicial Department. The Judicial Department may see a small increase in revenue from additional case filings as a result of the bill. Any revenue impact is expected to be minimal.

State Expenditures

The bill increases state expenditures in the CDLE and the Department of Personnel and Administration (DPA) by about \$110,000 in FY 2024-25 and \$196,000 in FY 2025-26, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 24-1008

	FY 2024-25	FY 2025-26
Department of Labor and Employment		
Personal Services	\$44,568	\$139,803
Operating Expenses	\$640	\$2,304
Capital Outlay Costs	\$6,670	\$13,340
Software Licenses	\$3,301	\$6,602
Centrally Appropriated Costs ¹	\$10,030	\$34,171
FTE – Personal Services	0.5 FTE	1.8 FTE
CDLE Subtotal	\$65,209	\$196,220
Department of Personnel and Administration		
Legal Services	\$44,807	-
FTE – Legal Services	0.2 FTE	-
DPA Subtotal	\$44,807	-
Total Cost	\$110,016	\$196,220
Total FTE	0.7 FTE	1.8 FTE

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

Labor and Employment. The Division of Labor Standards and Statistics in the CDLE requires 0.5 FTE in FY 2024-25 and 0.1 FTE in FY 2025-26 and ongoing to stand up the program, update labor law guidance publications and outreach presentations, update internal documents to comply with the bill’s requirements, and translate updates to outreach materials into Spanish. The CDLE also requires 1.7 FTE beginning in FY 2025-26 for compliance investigation staff to address an increase in the volume and complexity of construction-related complaints and investigations (see Assumptions section above). Standard operating and capital outlay costs are included and first-year costs assume a July 2024 start date.

Department of Personnel and Administration. The Department of Personnel and Administration requires 350 hours of legal services (0.2 FTE) at a rate of \$128.02 per hour in FY 2024-25 provided by the Department of Law to address a variety of current state construction contracts that would need to be redrafted based on the requirements of this bill.

Judicial Department. The bills may increase the number of construction-related wage claims and increase workload for the trial courts in the Judicial Department. Any workload increase is absorbable within existing resources.

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 and supplemental employee retirement payments, are shown in Table 2.

Effective Date

The bill takes effect on July 1, 2025, assuming no referendum petition is filed.

Technical Note

The bill's effective date precludes the CDLE from receiving an appropriation in July 2024 to begin implementing the bill. The costs in this fiscal note assume the effective date will be adjusted to allow for a full-year appropriation in FY 2024-25, prior to the other provisions taking effect on July 1, 2025.

State Appropriations

For FY 2024-25, the bill requires General Fund appropriations of:

- \$55,179 to the Department of Labor and Employment, and 0.5 FTE; and,
- \$44,807 to the Department of Personnel and Administration, which is fully reappropriated to the Department of Law, with 0.2 FTE.

State and Local Government Contacts

Judicial
Personnel

Labor
Regulatory Agencies

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 the [General Assembly website](#).