



Legislative
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FISCAL NOTE

Drafting Number: LLS 20-0736
Prime Sponsors: Rep. Melton

Date: February 11, 2020
Bill Status: House Business
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Bill Topic: **EMPLOYEE PROTECTION LAWFUL OFF-DUTY ACTIVITIES**

Summary of Fiscal Impact:

<input 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 clarifies that it is unlawful for an employer to terminate an employee for engaging in any activity that is legal under state law while off duty. The bill may increase state workload beginning in FY 2020-21.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

The bill clarifies that it is unlawful for an employer to terminate an employee for engaging in any activity that is legal under state law, regardless of its legal status under federal law, while off the premises of the workplace and during non-working hours. Under current law, an employer may restrict such activity if it relates to a bona fide occupational requirement or is related to employment activities of a particular employee or group of employees, or to avoid a conflict of interest.

Background

Under current law, it is unlawful to terminate an employee for engaging in any lawful activity, while off duty. However, the statute does not currently specify with which jurisdiction (state, local, or federal) to judge the lawfulness of the activity.

The drug and alcohol policy for Colorado state employees requires that employees refrain from reporting to work while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs. All covered workers are prohibited from testing positive for metabolites of substances that are listed in the schedules of the Federal Controlled Substances Act and the State of Colorado Controlled Substances Act. Employees in violation of the policy may be referred for mandatory treatment and may be subject to personnel action.

State Expenditures

The bill may increase state workload beginning in FY 2020-21.

Judicial Department. Employee terminations in violation of the bill could lead to additional district level civil case filings in trial courts. A small increase in caseload can be accomplished within existing appropriations.

Department of Personnel and Administration. The bill may increase the number of appeals cases the Office of Administrative Courts would hear. A small increase in caseload can be accomplished within existing appropriations.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

The bill applies to conduct occurring on or after the bill's effective date.

State and Local Government Contacts

Information Technology
Natural Resources
Regulatory Agencies

Judicial
Personnel
Transportation

Labor
Public Safety