



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1169

FISCAL NOTE

Drafting Number: LLS 20-0955 Date: February 18, 2020
Prime Sponsors: Rep. Ransom; Neville Bill Status: House SVMA
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Bill Topic: PROHIBIT DISCRIMINATION LABOR UNION PARTICIPATION

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill prohibits mandatory employee membership in a labor organization, with certain exceptions, and creates penalties. It may minimally increase state and local revenue from fines and fees, and increase workload. It may also impact statutory public entities that require union participation. These impacts are ongoing.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill prohibits an employer from requiring employee membership in a labor organization as a condition of employment and from requiring employees to pay dues or fees to a labor organization, charity, or other third party. Standing agreements that violate these prohibitions are made void. The bill also defines all-union agreements as unfair labor practices. Violations by employers are considered unclassified misdemeanors and are subject to civil actions and criminal penalties of a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Civil remedies include all damages and attorney fees resulting from the violation. The Attorney General or the district attorney of each judicial district is responsible for investigating complaints and taking actions to enforce the statute. Federal employers and employees, as well as those covered by the Railway Labor Act, are exempt from the bill.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense. House Bill 20-1169 creates a new unclassified misdemeanor for employers who require participation with or payment to a labor organization, charity, or other third party as a condition of employment, punishable by a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Under current law,

violation of any section of the Labor Peace Act constitutes a misdemeanor punishable by a fine. The fine for Labor Peace Act violations ranges from \$50 to \$100 for the first convicted offense, and \$100 to \$500 for subsequent offenses, together with other costs. In the last three years, there have been no charges or convictions under the Labor Peace Act. Therefore, the fiscal note assumes that there will be minimal case filings or convictions for the new offense under the bill.

Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## Background

According to the Bureau of Labor Statistics, union members accounted for 9.0 percent of wage and salary workers in Colorado in 2019.

## State Revenue

Beginning in FY 2020-21, this bill may minimally increase state cash fund revenue from criminal fines and court and administrative fees.

**Criminal fines.** The bill creates a misdemeanor punishable by a fine of up to \$1,000, credited to the Fines Collection Cash Fund in the Judicial Department. The fiscal note assumes a high rate of compliance by employers and that any increase in state cash fund revenue will be minimal.

**Court and administrative fees.** To the extent new cases go to court, fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court, and may include such items as victim compensation and late fees, among others. Some fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

## State Expenditures

Beginning in FY 2020-21, this bill may increase workload in the Department of Law, which is responsible for investigating and prosecuting complaints associated with employer violations, and in the Department of Labor and Employment, to answer questions from employers about the law. To the extent that the bill increases court filings for employer complaints, the bill may also increase the workload of the Judicial Department. Because the fiscal note expects a high level of employer compliance, however, it is assumed that these workload increases will be minimal and can be accomplished within existing appropriations.

## Local Government Impact

This bill affects local governments in several ways.

**Local government workload.** This bill may increase workload for district attorneys, who are charged with investigating and prosecuting complaints associated with employer violations. It may increase workload for the Denver County Court, managed and funded by the City and County of Denver, to try new misdemeanor cases. Probation services in the Denver County Court may also experience a minimal increase in workload to supervise persons convicted under the bill. Counties that currently use collective bargaining agreements will be minimally impacted as they make necessary changes to conform with the law. It is assumed these costs will be minimal.

**County jails.** Based on the assumptions listed in the Comparable Crime Analysis section, the bill may increase county jail costs. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. Based on a 2019 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$58.56.

**Denver County Court.** The bill increases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload to supervise persons convicted under the bill within Denver County. Under the bill, an offender may be fined up to \$1,000.

### **Statutory Public Entity Impact**

Statutory public entities, insofar as these entities require labor union participation, will be minimally impacted by the bill. The Regional Transportation District (RTD), for example, currently deducts compulsory union dues from their employees' salaries. The fiscal note assumes that the workload impact will occur as these entities repeal compulsory union membership in accordance with the bill and make updates to their payroll system. Should RTD repeal compulsory union membership, it may no longer be in compliance with federal requirements and may lose federal grant funds as a result.

### **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.

### **State and Local Government Contacts**

Corrections	Counties
District Attorneys	Education
Higher Education	Information Technology
Judicial	Labor
Law	Local Affairs
Municipalities	Personnel
Regional Transportation District	Regulatory Agencies
School Districts	Special Districts