



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

HB 20-1348

# FINAL FISCAL NOTE

<b>Drafting Number:</b>	LLS 20-0970	<b>Date:</b>	July 23, 2020
<b>Prime Sponsors:</b>	Rep. Kennedy Sen. Gonzales	<b>Bill Status:</b>	Postponed Indefinitely
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**Bill Topic:** **ADDITIONAL LIABILITY UNDER RESPONDEAT SUPERIOR**

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input 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

This bill would have allowed a plaintiff in a civil tort claim to bring additional claims against the employer arising out of the same incident as the one involving an employee. It would have increased state and local revenue, workload, and potential expenditures on an ongoing basis.

**Appropriation  
Summary:** No appropriation was required.

**Fiscal Note  
Status:** The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

## Summary of Legislation

In 2017, the Colorado Supreme Court held that when an employer admits liability for the certain actions of its employee, the plaintiff cannot assert additional claims against the employer arising out of the same incident. This bill reverses the court's decision and allows a plaintiff in a civil tort claim to bring additional claims against the employer arising out of the same incident as the one involving an employee.

Under the bill, when an employer admits liability for the tortious actions of its employee, a plaintiff can assert additional claims against the employer. The employer does not avoid liability for negligent acts by admitting that an employee was in the course or scope of employment when the tortious act was committed. An employer may be held responsible for its own direct negligence, including derivative and non-derivative claims. It is not a defense that one party's negligence must combine with another party's negligence to result in an injury or death. The trier of fact will apportion the degree of negligence to each party.

## State Revenue

The bill may increase civil case filings in the Judicial Department by a minimal amount. For informational purposes, the current civil case filing fee is \$235. Fee revenue is subject to TABOR.

## State Expenditures

The bill may increase workload and General Fund expenditures in the Department of Law and the Department of Personnel and Administration (DPA), and may increase workload in the Judicial Department. These impacts are discussed below.

**Department of Law.** The bill may increase the number of cases in which state employees are defendants. If necessary, the Department of Law may seek General Fund appropriations through the annual budget process as more case data becomes available.

**Department of Personnel and Administration.** If a significant number of claims arise, the DPA may require additional General Fund to keep the Risk Management Fund solvent. The risk management program's actuary will capture the claim costs as well as external legal costs in the actuarial analysis of the state's experience, and this analysis will form the basis for any adjustments through the annual budget process.

**Judicial Department.** The bill may increase civil cases filed in the trial courts, as the ability to bring additional claims from the same incident may encourage plaintiffs to file. The Judicial Department would have to see 549 additional civil cases filings before it requires an additional 1.0 FTE district court judicial officer. This bill is not anticipated to reach this threshold and no change in appropriations is required.

**TABOR refunds.** Under the March 2020 LCS Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2020-21 or FY 2021-22, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

## Local Governments

Similar to the state, if the legislation increases claims filed against local government employees, costs will increase for attorney's fees, damages, and/or insurance or liability coverage costs.

## Effective Date

The bill was postponed indefinitely by the House Judiciary Committee on May 26, 2020.

## Departmental Difference

The Department of Law estimates that the bill will require \$383,760 and 2.0 FTE per year beginning in FY 2020-21, which represents 3,600 hours of staff time. This staff will work to represent the state and its employees in cases brought under the bill. In general, fiscal notes do not include appropriations for potential litigation, and only when sufficient data are provided. Instead, the fiscal note assumes that state departments have sufficient legal services budgets to offset the initial impact, and that the annual budget process may be used if caseload necessitates additional staff.

**State and Local Government Contacts**

Counties  
Personnel

Judicial  
Regulatory Agencies

Law  
School Districts

Municipalities  
Special Districts