



Legislative
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FINAL FISCAL NOTE

Drafting Number: LLS 20-0756
Prime Sponsors: Sen. Marble
Rep. Saine

Date: May 6, 2020
Bill Status: Postponed Indefinitely
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Bill Topic: PROHIBIT REQUIRING EMPLOYEE IMMUNIZATION

Summary of Fiscal Impact:

| | |
|---|--|
| <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 |

The bill would have prohibited an employer from requiring employees to be vaccinated or taking adverse action against an employee based on their vaccination status. The bill would have minimally increased state revenue, and would have increased state expenditures beginning in FY 2020-21.

Appropriation Summary: The bill would have required an appropriation of \$17,327 to the Department of Labor and Employment in FY 2020-21.

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

Table 1
State Fiscal Impacts Under SB 20-084

| | | FY 2020-21 | FY 2021-22 |
|---------------------|------------------------|-----------------|-----------------|
| Revenue | | - | - |
| Expenditures | Cash Funds | \$17,327 | \$17,327 |
| | Centrally Appropriated | \$4,557 | \$4,557 |
| | Total | \$21,884 | \$21,884 |
| | Total FTE | 0.3 FTE | 0.3 FTE |
| Transfers | | - | - |
| TABOR Refund | | - | - |

Summary of Legislation

The bill prohibits an employer, including a licensed health facility, from requiring employees to be vaccinated or taking adverse action against an employee based on their vaccination status. An aggrieved employee may file a civil action to prevent additional violations, to seek reinstatement or rehiring, and/or to recover back pay and benefits. An aggrieved employee may also receive punitive damages if the employer acted with malice or acted with willful and wanton misconduct.

Background

Department of Public Health and Environment. The Health Facilities and Emergency Medical Services Division is charged with ensuring that health care facilities maintain minimum standards of quality by setting health and safety standards. The Health Facilities and Emergency Medical Services Division administers a rule that requires health facilities to ensure that 90 percent of their employees have received the influenza vaccine each year.

The Communicable Disease Branch within the Disease Control and Environmental Epidemiology Division is required to monitor, investigate, and control the causes of epidemic and communicable diseases affecting the state's public health. They maintain the Colorado Electronic Disease Reporting System and provide guidance and technical support to local health departments.

Department of Labor and Employment. The Division of Labor Standards within the Department of Labor and Employment (CDLE) is responsible for ensuring employer compliance with state and federal employment laws, including providing support to employees in understanding their rights and responsibilities.

Assumptions

The fiscal note assumes that inquiries to CDLE will increase as a result of the bill. It is assumed that CDLE will receive approximately 50 inquiries per month and take approximately one hour to resolve, resulting in an additional 600 hours of work annually.

State Revenue

The bill may increase state revenue to the Judicial Department minimally as a result of increased civil filing fees.

State Expenditures

Beginning in FY 2020-21, the bill increases expenditures in the CDLE from the Employment Support Cash Fund by \$21,884 and 0.3 FTE, and increases workload in CDPHE. These costs are discussed below and displayed in Table 2.

Table 2
Expenditures Under SB 20-084

| | FY 2020-21 | FY 2021-22 |
|---|-------------------|-------------------|
| Department of Labor and Employment | | |
| Personal Services | \$17,327 | \$17,327 |
| Centrally Appropriated Costs* | \$4,557 | \$4,557 |
| Total Cost | \$21,884 | \$21,884 |
| Total FTE | 0.3 FTE | 0.3 FTE |

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

Department of Labor and Employment. CDLE will have costs for 0.3 FTE for staff to handle the increase in inquiries resulting from the bill. The work will include responding to inquiries and complaints from employees, and providing support related to the new requirements in the bill.

Department of Public Health and Environment. Workload will increase for CDPHE to engage in rulemaking. In each of the next two fiscal years, CDPHE will have to engage in approximately 100 hours of rulemaking to repeal regulations that require vaccination of health facility employees. Due to the July 1, 2020 effective date, CDPHE will have to engage in emergency rulemaking in FY 2020-21 to meet this deadline, followed by formal rulemaking to finalize these rules in FY 2021-22. This increase in workload can be accomplished with existing resources.

Additionally, the CDPHE may have additional workload to monitor and report on communicable disease in the state, to the extent that vaccine rates and instances of communicable disease change under the bill. This potential increase in workload can be accomplished with existing resources.

Civil Proceedings. The bill may increase workload in the Department of Law and Judicial Department depending on the number of cases alleging violation of the law. A small increase in cases can be handled with existing resources; however, if a significant number of cases arise, additional resources may be requested through the annual budget process.

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 estimated to be \$4,557 per year.

TABOR refund. 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 Government

Costs may increase for local governments under the bill. County and municipal governments are considered employers under the bill. Therefore, they may be subject to litigation from allegedly aggrieved employees. The exact impact will depend on the number of cases and the potential judgements. Similar to the CDPHE, local health agencies may have additional workload monitoring and responding to communicable disease in the state.

Effective Date

This bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on February 10, 2020.

State Appropriations

For FY 2020-21, the bill would have required an appropriation of \$17,327 to the Department of Labor and Employment from the Employment Support Cash Fund and an allocation of 0.3 FTE.

State and Local Government Contacts

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|---------------------|-----------|------------------------|
| Corrections | Counties | Information Technology |
| Judicial | Labor | Law |
| Municipalities | Personnel | Public Health |
| Regulatory Agencies | | |