



SB 23-111

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 11, 2023)

Drafting Number:	LLS 23-0483	Date:	April 18, 2023
Prime Sponsors:	Sen. Rodriguez Rep. Woodrow	Bill Status:	House State Affairs
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Bill Topic: PUBLIC EMPLOYEES' WORKPLACE PROTECTION

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 checked="" type="checkbox"/> Statutory Public Entity

The bill establishes certain rights for public employees and associated enforcement procedures. The bill increases state revenue and expenditures, and potentially increases costs for certain local governments and statutory public entities, on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires and includes an appropriation of \$151,751 to the Colorado Department of Labor and Employment.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under SB 23-111**

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$151,751	\$254,890
	Centrally Appropriated	\$17,717	\$37,930
	Total Expenditures	\$169,468	\$292,820
	Total FTE	1.2 FTE	2.2 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$22,763	\$38,233

Summary of Legislation

The bill specifies that public employees have the right to:

- discuss or express views on workplace issues and employee rights and representation;
- engage in protected, concerted activity for the purposes of mutual aid or protection;
- participate in the political process while off-duty without discrimination, intimidation, or retaliation;
- speak with members of the public employer's governing body about conditions of employment; and
- form or join, or refrain from participating in, an employee organization.

A public employer must not discriminate against an employee for engaging in the rights listed above, interfere with the administration of an employee organization, or discriminate against an employee who has joined an employee organization or has filed a complaint related to the bill. The bill does not codify the right to recognize or negotiate a collective bargaining agreement.

Definition of public employer. Under the bill, a public employer includes the following:

- a municipality or a city and county;
- a county with a population of less than 7,500;
- a district, business improvement district, or special district that is a political subdivision of the state, a county, or municipality;
- the Colorado School for the Deaf and the Blind;
- a state institution of higher education;
- the Office of the State Public Defender;
- the University of Colorado Hospital Authority and Denver Health and Hospital Authority;
- majority and minority caucus staff for the House of Representatives and the Senate;
- a Board of Cooperative Services (BOCES);
- firefighters; and
- Joint Budget Committee Staff (JBC), Legislative Council Staff (LCS), the staff of the Chief Clerk of the House of Representatives, and Senate Services Staff; however, these employers may limit employee participation in the political process to the extent necessary to maintain their nonpartisan role.

A public employer does not include state employees, except for those specified above, or a political subdivision of the state that operates a mass transportation system. No public employer may waive the bill's provisions.

Enforcement. An aggrieved party must file a claim for a violation within six months of knowing about the violation. The Division of Labor Standards and Statistics (DLSS) in the Colorado Department of Labor and Employment (CDLE) is charged with enforcing the rights under the bill and must create a process to review and investigate complaints, at the discretion of the division director. DLSS may also promulgate rules, publish guidance for employers, or provide alternative dispute resolution at its discretion. Beginning July 1, 2024, CDLE may adjudicate unfair labor practices and issue decisions. A party may appeal CDLE's decision to the Colorado Court of Appeals, whose review must be limited to whether CDLE exceeded its jurisdiction or abused its discretion. Enforcement costs must be paid from the General Fund.

State Revenue

The bill increases state revenue to the Wage Theft Enforcement Fund from any fines collected. Overall, any revenue is expected to be minimal, as the Colorado Wage Act encourages the DLSS to waive most fines assessed against employers if the employer complies with the law, and DLSS has never levied a fine for an unfair labor practice. Any revenue from court filing fees is also expected to be minimal.

State Expenditures

The bill increases state expenditures in CDLE by \$169,468 in FY 2023-24 and \$292,820 in FY 2024-25, paid from the General Fund. It also increases workload for Judicial Department, and potentially costs for the Legislative Department, institutions of higher education, Department of Education, and Office of the State Public Defender. Expenditures are shown in Table 2 and detailed below.

**Table 2
 Expenditures Under SB 23-111**

	FY 2023-24	FY 2024-25
Department of Labor		
Personal Services	\$83,263	\$181,414
Operating Expenses	\$4,118	\$8,506
Capital Outlay Costs	\$6,670	\$6,670
Legal Services	\$57,100	\$57,100
Travel Costs	\$600	\$1,200
Centrally Appropriated Costs ¹	\$17,717	\$37,930
FTE – Personal Services	0.9 FTE	1.9 FTE
FTE – Legal Services	0.3 FTE	0.3 FTE
Total	\$169,468	\$292,820
Total FTE	1.2 FTE	2.2 FTE

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

Department of Labor. CDLE requires 0.9 FTE in FY 2023-24 and 2.0 FTE in subsequent years to handle complaints filed under the bill. The fiscal note assumes approximately one complaint for every 3,800 employees, for a total of 75 complaints per year; however, investigations are at the discretion of the division director and the fiscal note assumes that most of the investigation work will not occur until FY 2024-25 when CDLE may adjudicate claims and issue decisions. A supervisor will handle management of all complaints, outreach, questions and rulemaking on an ongoing basis. In the first year only, a policy advisor will handle the rulemaking process. In subsequent years, each complaint will require work from a compliance investigator and an administrative law judge. Standard capital outlay costs, operating expenses including software licenses, and staff travel costs are also required. Staff costs in the first year are prorated for a September 1, 2023, start date in the first year, and prorated for the General Fund pay date shift in each position's first year.

Department of Law. CDLE requires 540 hours annually for general counsel, rulemaking, and investigation support. Legal services are provided by the Department of Law at a rate of \$105.74 per hour; the required hours equate to 0.3 FTE.

In addition, the Department of Law may incur additional costs to provide legal counsel for institutions of higher education, due to the number of employees across institutions that are covered by the bill. The exact cost cannot be estimated, as it depends on where institution complaints may occur, and the associated workload. As a result, any additional legal services hours for institutions of higher education will be requested through the annual budget process.

Department of Personnel and Administration. Because the Department of Personnel and Administration (DPA) manages the employee benefit plans for institutions of higher education, legislative staff, the Colorado School for the Deaf and the Blind, and the Office of the State Public Defender, the DPA may have workload and costs to the extent that state agencies covered by the bill choose to engage with employee organizations acting on behalf of employees. Because state agencies are not required to engage with employer organizations, the costs are assumed to be accomplished within current appropriations. Any additional resources needed will be requested through the annual budget process.

Specified state agencies. The bill increases costs by an indeterminate amount for any state entity included as a public employer in the bill to respond to complaints. This includes state institutions of higher education; LCS, OLLS, and House and Senate staff in the Legislative Department; the Colorado School for the Deaf and the Blind in the Department of Education; and the Office of the State Public Defender. The fiscal note assumes that this workload will not require a change in appropriations and that any additional resources needed will be requested through the annual budget process.

Judicial Department. The bill increases workload in the trial courts in the Judicial Department by a minimal amount to handle any appeals of CDLE decisions. No change in appropriations is required.

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.

Local Government and Statutory Public Entity

Similar to the state agency impacts listed above, the bill increases costs for municipalities, counties with a population of 7,500 or less, special districts, and the Denver Health and Hospital Authority to respond to any complaints filed for violations of the bill's provisions. Cost will vary among each public employer depending on the number of complaints received.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except that CDLE's authority to adjudicate complaints and issue decisions takes effect July 1, 2024.

State Appropriations

For FY 2023-24, the bill requires and includes an appropriation of \$151,751 from the General Fund to the Colorado Department of Labor and Employment, and 0.9 FTE. Of that amount, \$57,100 is reappropriated to the Department of Law, with an additional 0.3 FTE.

State and Local Government Contacts

Counties	Education	Higher Education
Joint Budget Committee Staff	Judicial	Labor
Law	Legislative Council Staff	Legislative Legal Services
Personnel	Public Defender	School Districts
Special Districts		