



**Colorado
Legislative
Council
Staff**

HB17-1119

**REVISED
FISCAL NOTE**

(replaces fiscal note dated April 5, 2017)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0143

Date: May 2, 2017

Prime Sponsor(s): Rep. Kraft-Tharp
Sen. Jahn; Tate

Bill Status: Senate SVMA

Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: PAYMENT OF WORKERS' COMPENSATION BENEFITS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	<u>\$45,000</u>	<u>\$45,000</u>
General Fund		(595,827)
Cash Funds	45,000	640,827
State Expenditures	<u>\$6,000</u>	<u>at least \$6,000</u>
Cash Funds	6,000	at least 6,000
TABOR Impact	\$45,000	\$45,000
Appropriation Required: \$6,000 - Department of Labor and Employment (FY 2017-18).		
Future Year Impacts: Ongoing increase in state revenue and expenditures.		

Summary of Legislation

This *reengrossed* bill creates the Uninsured Employer Board (board) and the Colorado Uninsured Employer Fund (fund) in the Division of Workers' Compensation (division) of the Colorado Department of Labor and Employment (CDLE). The board oversees the fund, which is designed to pay benefits to injured workers whose employers do not have workers' compensation insurance beginning January 1, 2020.

Uninsured Employer Board. The director of the division or his or her representative and four other members appointed by the Governor must serve on the board. The board's statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds all fall under CDLE. Board members are reimbursed for actual and necessary traveling and expenses. The board must:

- pay its own expenses;
- adopt rules as necessary to carry out its duties;
- disseminate information about the fund;
- establish standards and criteria for paying benefits and set minimum and maximum benefit rates, subject to certain restrictions; and
- investigate claims and adjust, compromise, settle, and pay covered claims or deny payment of benefits.

The board must adopt a plan of operation by September 1, 2018, including procedures for carrying out the board's powers and duties, for reimbursing board members, for filing claims, for pursuing actions against uninsured employers, and for contracting with third-party administrators. The board, its agents, or its employees are immune from civil liability in the performance of their duties.

Colorado Uninsured Employer Fund. The fund consists of fines collected from employers failing to carry workers' compensation insurance; other civil penalties, fines, and revenue collected by the division; and any appropriations made to the fund, including earned interest. The bill specifies that, in some instances, penalty revenue from workers' compensation insurance violations go to the fund rather than the Workers' Compensation Cash Fund, the Subsequent Injury Cash Fund, or the General Fund. The fund is authorized to accept gifts, grants, and donations. It is exempt from the statutory limits on uncommitted reserves. The bill establishes procedures for payment of benefits from the fund and collection of benefits from employers whose employees file covered claims with the fund. A performance audit of the fund must be completed by June 1, 2022.

The bill also allows CDLE, in certain circumstances, to enter into settlement agreements with employers who violate sections of workers' compensation law and to negotiate fines lower than the minimum amount. This provision of statute is subject to a sunset review before July 1, 2022.

State Revenue

Beginning in FY 2017-18, this bill increases state cash fund revenue from fines and may increase cash fund revenue from gifts, grants, or donations in the Uninsured Employer Cash Fund in CDLE. As of this writing, no source of gifts, grants, or donations has been identified. The bill also reduces revenue in the Workers' Compensation Cash Fund, the Subsequent Injury Cash Fund, and the General Fund. These impacts are shown in Table 1 and discussed below.

Fund	FY 2017-18	FY 2018-19
Uninsured Employer Cash Fund	\$180,000	\$974,436
Workers' Compensation Cash Fund		(198,609)
Subsequent Injury Cash Fund	(135,000)	(135,000)
General Fund		(595,827)
TOTAL	\$45,000	\$45,000

Colorado Department of Labor and Employment. The bill directs that penalties for violating certain provisions of the workers' compensation insurance laws go to the fund instead of the Workers' Compensation Cash Fund, the Subsequent Injury Cash Fund, or the General Fund. The fiscal note uses four-year averages of penalty revenue collected by the division to estimate the revenue changes under the bill.

TABOR Impact

This bill increases state cash fund revenue from fines, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

Beginning in FY 2017-18, the bill increases state cash fund expenditures by \$6,000 per year in CDLE. It also increases workload for the Department of Law and may affect the workload of the Judicial Department.

Colorado Department of Labor and Employment. In FY 2017-18 and beyond, the bill increases state cash fund expenditures by \$6,000 in the Worker's Compensation Cash Fund. The five-member board is expected to meet once per month beginning upon the appointment of the members in July of 2017, and expenses include \$100 per member per meeting. The bill also increases workload for the department, as the board is tasked with administering the program. In this capacity, the board may choose to hire additional staff to assist with administrative tasks or claims adjustment, or it may contract with third-party administrators. The fiscal note assumes this increase in workload can be accomplished within existing appropriations. The bill also increases cash fund expenditures for the board to pay benefits to workers who file compensable claims. No benefits payments are expected until January of 2020. The exact impact to state cash fund expenditures depends on how many claims workers file with the board, how many claims the board pays, and the amounts awarded. The fiscal note has not estimated the impact to state expenditures from benefit payments. If CDLE requires additional resources in future years, it will request them through the annual budget process.

Department of Law. The bill grants the board rulemaking authority, which may increase workload in the Department of Law to provide legal counsel. Should the bill drive additional hearings related to fines and penalties, the department may provide legal representation to CDLE. Any increase in workload associated with the bill is assumed to be minimal and does not require an increase in appropriations.

Judicial Department. Because claims related to employers that fail to carry workers' compensation insurance may be filed with the board rather than the court, the bill may result in a slight decrease in workload for trial courts. Alternatively, if parties to cases handled by the board seek judicial review after the board renders a final decision, workload for trial courts may increase slightly. Any change in workload for the Judicial Department is assumed to be minimal and does not require any change in appropriations.

Local Government Impact

This bill may increase workload for county clerks, who are required to record liens filed by the fund against employers in violation of workers' compensation laws. The fiscal note assumes this increase in workload is minimal.

Effective Date

The bill takes effect July 1, 2017.

State Appropriations

In FY 2017-18, the bill requires and includes a cash fund appropriation of \$6,000 to CDLE from the Workers' Compensation Cash Fund.

State and Local Government Contacts

County Clerks
Labor
Treasury

Information Technology
Law

Judicial
Personnel