



**Colorado  
Legislative  
Council  
Staff**

**HB17-1270**

**FISCAL NOTE**

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

**Drafting Number:** LLS 17-0823  
**Prime Sponsor(s):** Rep. Kraft-Tharp; Lawrence  
 Sen. Williams A.; Coram

**Date:** March 21, 2017  
**Bill Status:** House Business  
**Fiscal Analyst:** Anna Gerstle (303-866-4375)

**BILL TOPIC:** AGENCY DISCRETION ENFORCING RULES SMALL BUSINESS

| <b>Fiscal Impact Summary</b>   | <b>FY 2016-2017<br/>(current year)</b>                | <b>FY 2017-2018</b> | <b>FY 2018-2019</b> |
|--|---|---------------------|---------------------|
| <b>State Revenue</b><br>General Fund<br>Cash Funds   | Minimal decrease.                                     |                     |                     |
| <b>State Expenditures</b><br>General Fund<br>Cash Funds  | Workload increase.<br>See State Expenditures section. |                     |                     |
| <b>TABOR Impact</b>  | Minimal decrease.                                     |                     |                     |
| <b>Appropriation Required:</b> None.   |   |                     |                     |
| <b>Future Year Impacts:</b> Ongoing minimal revenue decrease and potential expenditure increase. |   |                     |                     |

**Summary of Legislation**

The bill allows state agencies to exercise discretion over imposing a fine on a small business for a first-time, minor violation. A small business is defined as having 50 employees or fewer for the purposes of the bill, and a minor violation:

- relates to operational or administrative matters;
- relates to a rule promulgated within one year of the violation occurring;
- is enforced by a fine of \$500 or less; and
- does not include any matter that places persons or the public health, safety, or environment at risk; or any violations related to the issuance or denial of benefits or compensation to employees or activities required by federal law.

When an agency determines that a first-time, minor violation by a small business has occurred, the agency must identify the rule violated, the fine amount, and indicate the steps the business needs to take to address the violation. The agency may give the business 30 days to cure the violation and waive the violation if cured, or may reduce the fine amount. The bill does not apply in situations where an agency is required by statute to assess a fine for noncompliance with a statute or rule.

The bill also requires that state agencies conduct an annual analysis of and report on noncompliance with its rules and specifies what must be included. Based on the analysis, agencies must consider and review whether a rule is unclear and should be rewritten, and whether more education or training of regulated businesses would improve compliance. Each department must submit the report to the business committees of the General Assembly on January 1, 2018 and each year thereafter. The reporting requirement is repealed September 1, 2022; prior to the repeal, the business committees must examine, with the business community, the usefulness of the annual reports and determine whether the reports should be continued.

### **State Revenue**

The bill decreases state revenue by a minimal amount beginning in FY 2016-17. The bill gives state agencies discretion in reducing fines for first-time, minor violations and giving businesses time to address the violation. To the extent that agencies assess fewer fines or lower fine amounts, revenue will decrease. The fiscal note assumes that a minimal amount is collected from first-time, minor violations, and as a result, revenue will decrease by a minimal amount. Fine revenue is deposited into the General Fund or various cash funds, depending on the agency.

### **TABOR Impact**

This bill reduces state revenue from fines, which will reduce 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. TABOR refund obligations are not expected for FY 2016-17. In years when the state collects revenue above the TABOR limit, the reduction in General Fund revenue has no net impact on the amount of money available in the General Fund for the budget, as both revenue to the General Fund and the refund obligation decrease by equal amounts. However, the reduction in cash fund revenue reduces the TABOR refund obligation, increasing the amount of money available in the General Fund for the budget on a dollar-for-dollar basis. In future years when the state does not collect revenue above the TABOR limit, the bill's impact on General Fund revenue will reduce money available for the General Fund budget.

### **State Expenditures**

Beginning in FY 2016-17, the bill increases the workload for state agencies in several ways. First, workload increases to annually produce the required analysis and report, as well as to consider whether to rewrite rules or provide additional education to impacted businesses. Workload may also increase for agencies that adjust enforcement and fining procedures, or implement any of the bill's suggestions for informing businesses about rules. Current practices vary among agencies; as a result, the extent of the workload increase will vary depending on the agency. In addition, agencies may require additional legal services for rulemaking, or may need to modify databases or procedures to track and determine which businesses regulated have under 50 employees. The fiscal note assumes that the workload increase will be accomplished within each agency's existing appropriation; however, should an agency require additional resources, it will be requested through the annual budget process.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

**State and Local Government Contacts**

All State Agencies

**Research Note Available**

An LCS Research Note for HB17-1270 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.