



**Colorado
Legislative
Council
Staff**

SB17-276

FISCAL NOTE

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

Drafting Number: LLS 17-1156
Prime Sponsor(s): Sen. Neville T.
 Rep. Neville P.

Date: April 11, 2017
Bill Status: Senate Business
Fiscal Analyst: Anna Gerstle (303-866-4375)

BILL TOPIC: ALLEVIATE FISCAL IMPACT STATE RULES SMALL BUSINESS

| Fiscal Impact Summary | FY 2017-2018 | FY 2018-2019 |
|---|---|---------------------|
| State Revenue General Fund Cash Fund | Minimal decrease. | |
| State Expenditures General Fund Cash Funds | Workload impact. See State Expenditures section. | |
| TABOR Impact | Minimal decrease. | |
| Appropriation Required: None. | | |
| Future Year Impacts: Ongoing minimal revenue decrease and workload impact. | | |

Summary of Legislation

The bill requires that when a small business commits a first-time, minor violation of certain administrative rules, state agencies must notify the small business in writing of the violation, including steps needed to correct the violation, and give the small business 30 business days to address the violation. If the small business fails to address the violation within that time, the agency may impose a fine. A small business may request additional time if it has made a good faith effort to address the violation. The bill does not apply to situations where statute requires an agency to assess a fine for noncompliance with an agency rule or statute.

The bill defines a small business as one that employs 100 or fewer employees and minor violation as one that includes operational or administrative matters such as record keeping, data retention, or report filing, and is enforced by a fine. A minor violation does not include a violation that puts the safety of the public or employees at risk, or one that relates to:

- state-issued permits, licenses, or registrations;
- bidding on state contracts;
- activities required by federal law;
- enforcement of the Uniform Consumer Credit Code by the Attorney General's Office;
- rules adopted by the Secretary of State relating to the regulation of lobbyists; or
- rules adopted by the Colorado Civil Rights Division or the Department of Public Health and Environment (CDPHE).

Under current law, agencies must establish a stakeholder group to provide feedback on proposed rules and must make an effort to receive input from each stakeholder group impacted by the proposed rule. The bill requires that state agencies also make diligent attempts to notify and request input from small businesses about proposed rules, including the fiscal impact of the proposed rules and ways for those impacts to be addressed.

Background

According to 2016 data from the Colorado Department of Labor and Employment (CDLE), there are approximately 187,000 physical business locations with 100 or fewer employees. CDLE assumes that between 10 and 20 percent are part of a bigger, multi-location business. Assuming those multi-location businesses have over 100 total employees, there are approximately 159,000 businesses with under 100 employees in the state.

State Revenue

The bill decreases state cash fund and General Fund revenue by a minimal amount beginning in FY 2017-18. The fiscal note assumes that a minimal amount is collected from first-time, minor violations. To the extent that state agencies currently assess fines for first-time, minor violations of rules by small businesses with fewer than 100 employees, revenue from fines to those state agencies will decrease.

TABOR Impact

This bill reduces state cash fund and General Fund 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. 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 2017-18, the bill increases the workload for most state agencies and may decrease the workload for the Judicial Department, as discussed below. The workload increase is expected to be accomplished within existing appropriations; however, if additional appropriations are required, it will be addressed by each agency through the annual budget process.

Rules subject to bill. Agencies must determine whether, and to what extent, its rules are exempted from or subject to the bill, as well as which businesses have 100 or fewer employees. A significant amount of state regulatory activity is exempt from the bill, but legal services will likely be necessary to determine which rules are subject to the bill's requirements. It is expected that legal counsel will be accommodated within each agency's allotted legal hours, provided by the Department of Law.

Steps to correct the violation. The bill increases the workload of affected state agencies to provide small businesses that commit a first-time, minor violation of a rule with the steps needed to cure the violation, and to follow up after thirty days to ensure compliance or grant the business additional time.

Outreach. Currently, state agencies conduct outreach to impacted persons and entities, including small businesses, during the rulemaking process. The requirement that agencies solicit information on the fiscal impact of proposed rules and ways to alleviate those impacts increases the workload for state agencies by a minimal amount and can be accomplished within existing appropriations.

Judicial Department. The bill may reduce the workload for the Judicial Department to conduct judicial reviews by a minimal amount. Assuming fewer fines are imposed by state agencies, there will likely be fewer agency actions that can be reviewed by the courts.

Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

All State Agencies