



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 21-0600	Date:	February 16, 2021
Prime Sponsors:	Sen. Kirkmeyer	Bill Status:	Senate Judiciary
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Bill Topic:	RESTRICT NONDISCLOSURE AGREEMENTS STATE GOVERNMENT
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Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill prohibits the state from executing or enforcing nondisclosure agreements, with some exceptions. It may increase state workload on an ongoing basis.

Appropriation Summary:	No appropriation is required.
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Fiscal Note Status:	The fiscal note reflects the introduced bill.
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Summary of Legislation

The bill prohibits the state from entering into, or requiring for employment, a nondisclosure agreement with any employee that would restrict the employee from disclosing factual circumstances concerning their employment. Any such agreement is considered against public policy and unenforceable, except when an agreement prohibits disclosures that implicate the employee's privacy interests or when a disclosure is contrary to federal or state law, or pertains to security arrangements or investigations. The state is further prohibited from taking retaliatory action against any employee who refuses to enter into an agreement prohibited by the bill.

State Expenditures

Beginning in FY 2021-22, the bill may increase workload in the Department of Personnel and Administration and the Judicial Department, as described below.

Department of Personnel and Administration. The Colorado State Personnel Board (SPB) establishes rules governing the state personnel system and reviews appeals by employees regarding adverse actions such as base pay, status, or tenure. Some appeals resolve in settlement agreements that involve nondisclosure provisions. To the extent that such provisions are prohibited by this bill, settlements may be harder to reach, resulting in more cases being heard by the SPB. The number of such cases is

expected to be small, and any increase in workload can be accomplished within existing appropriations.

Judicial Department. The prohibition of nondisclosure agreements could lead to additional litigation, to the extent that the bill makes more state government information discoverable. However, the incidence of new litigation is expected to be minimal, and any increase in the workload for trial courts can be accomplished within existing appropriations.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to contracts and agreements entered into, renewed, modified, or amended on or after the effective date of the act.

State and Local Government Contacts

All State Agencies