



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 23-0369	Date:	July 12, 2023
Prime Sponsors:	Sen. Kirkmeyer; Rodriguez Rep. Woodrow; Evans	Bill Status:	Signed into Law
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Bill Topic:	RESTRICT GOVERNMENTAL NONDISCLOSURE AGREEMENTS
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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 checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill prohibits state and local governments from requiring their employees to sign a non-disclosure agreement, with some exceptions. The bill increases state and local workload.

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

The bill prohibits state and local government agencies from requiring current and prospective employees to sign a non-disclosure agreement (NDA) as a condition of employment, unless the NDA is necessary to protect:

- privacy interests of the employee;
- personal identifying information and other data required to be kept confidential by federal or state law;
- attorney-client privileged communications and communications related to ongoing investigations
- trade secrets or other sensitive information that is part of a public-private partnership or owned by the employer;
- information pertaining to security;
- discussions that occur in executive session; or
- information not subject to disclosure under the Colorado Open Records Act.

Retaliatory action against an employee for failing to sign an NDA is also prohibited. Employers are liable for any employee attorney fees to defend against the failure to sign the NDA.

State Expenditures

The bill may increase state workload in the Department of Personnel and Administration (DPA) and the Department of Law beginning in FY 2023-24. The Colorado State Personnel Board in DPA reviews appeals from state employees regarding adverse employer actions. Nondisclosure provisions are sometimes used to settle these appeals. Without NDAs, settlement agreements may take additional time, resulting in a workload increase for the board and the Department of Law. The number of impacted cases is expected to be minimal and no change in appropriations is required.

Local Government

Similar to the state, local governments may have to change existing practices to comply with the provisions of the bill. Any additional workload resulting from the bill is assumed to be minimal.

Effective Date

The bill was signed into law by the Governor on June 2, 2023, and takes effect on August 7, 2023, assuming no referendum petition is filed.

State and Local Government Contacts

Counties	Information Technology	Law
Municipalities	Personnel	School Districts
Special Districts		