

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 09-0891  
**Prime Sponsor(s):** Rep. Levy  
 Sen. Heath

**Date:** March 16, 2009  
**Bill Status:** House Business Affairs and Labor  
**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**TITLE:** CONCERNING THE MISCLASSIFICATION OF EMPLOYEES AS INDEPENDENT CONTRACTORS FOR PURPOSES OF THE "COLORADO EMPLOYMENT SECURITY ACT".

<b>Fiscal Impact Summary</b>	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
<b>State Revenue</b>		
Cash Funds		
Unemployment Revenue Fund	\$82,400	\$82,400
Unemployment Insurance Trust Fund	>\$5,000	>\$5,000
<b>State Expenditures</b>		
Cash Funds		
Unemployment Revenue Fund*	\$174,108	\$108,152
<b>FTE Position Change</b>	2.0 FTE	2.0 FTE
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2009-2010:</b> See State Appropriations section.		
<b>Local Government Impact:</b> None.		

\* *The fund balance in the Unemployment Revenue Fund is sufficient to cover expenditures that exceed revenues.*

**Summary of Legislation**

This bill creates the Office of Employee Misclassification in the Division of Employment and Training in the Department of Labor and Employment. The office will investigate complaints of employers misclassifying employees as independent contractors in violation of the Colorado Employment Security Act. Upon finding a violation, the division director shall order the employer to pay back taxes owed plus interest. The director is authorized to impose a fine and prohibit an employer from contracting with the state for up to 2 years. The department is required to conduct a statewide study on the issue of employee misclassification and report those findings in combination with information on the operation of the office, to the General Assembly within 2 years.

**State Revenue**

Cash funds revenue to the Unemployment Revenue Fund is expected to increase by \$82,400 in FY 2009-10 and FY 2010-11 from fines levied against employers found to be in violation of the Colorado Employment Security Act. An increase in revenue from employment taxes recovered is expected, but the amount cannot be determined at this time. The fiscal note assumes this revenue will be greater than \$5,000 per year to the Unemployment Insurance Trust Fund. As the office gains experience, a better estimate can be developed.

**State Expenditures**

Cash funds expenditures are expected to increase by \$174,108 and 2.0 FTE in FY 2009-10 and \$108,152 and 2.0 FTE in FY 2010-11 from the Unemployment Revenue Fund. Auditors will conduct targeted audits to investigate an anticipated 120 complaints per year. The office will contract for computer programming to incorporate the new process into the agency computer system. The statewide study, rulemaking, and development of complaint procedures, will be addressed within existing funding. Table 1 below details these expenditures.

<b>Table 1. Expenditures Under HB09-1310</b>		
<b>Cost Components</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
Personal Services	\$106,252	\$106,252
<i>FTE</i>	2.0	2.0
Operating Expenses and Capital Outlay	12,356	1,900
Computer Programming	55,500	
<b>TOTAL</b>	<b>\$174,108</b>	<b>\$108,152</b>

**Expenditures Not Included**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

<b>Table 2. Expenditures Not Included Under HB09-1310*</b>		
<b>Cost Components</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$13,571	\$13,571
Supplemental Employee Retirement Payments	3,094	3,951
<b>TOTAL</b>	<b>\$16,665</b>	<b>\$17,522</b>

\*More information is available at: [http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf)

**State Appropriations**

The Department of Labor and Employment, Division of Employment and Training requires an appropriation of \$174,108 and 2.0 FTE for FY 2009-10 from the Unemployment Revenue Fund.

**Departments Contacted**

Labor and Employment

Revenue