


Colorado Legislative Council Staff Fiscal Note
STATE
REVISED FISCAL IMPACT
(replaces fiscal note dated March 16, 2009)

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

Date: March 31, 2009
Bill Status: House Appropriations
Fiscal Analyst: Clare Pramuk (303-866-2677)

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

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
Cash Funds		
Unemployment Revenue Fund	\$82,400	\$82,400
Unemployment Insurance Trust Fund	>\$5,000	>\$5,000
State Expenditures		
Cash Funds		
Unemployment Revenue Fund*	\$184,733	\$118,777
FTE Position Change	2.2 FTE	2.2 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2009-2010: See State Appropriations section.		
Local Government Impact: None.		

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

The fiscal note is revised to reflect amendments adopted by the House Business Affairs and Labor Committee.

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 upon a second or subsequent violation, prohibit an employer from contracting with the state for up to 2 years. As amended, the bill allows an employer to request a nonbinding advisory opinion from the division director as to how an individual employee should be classified. 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 \$184,733 and 2.2 FTE in FY 2009-10 and \$118,777 and 2.2 FTE in FY 2010-11 from the Unemployment Revenue Fund. Auditors will conduct targeted audits to investigate an anticipated 120 complaints per year. The division director is expected to write 120 advisory opinions 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.

Table 1. Expenditures Under HB09-1310		
Cost Components	FY 2009-10	FY 2010-11
Personal Services	\$116,877	\$116,877
<i>FTE</i>	2.0	2.0
Operating Expenses and Capital Outlay	12,356	1,900
Computer Programming	55,500	
TOTAL	\$184,733	\$118,777

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.

Table 2. Expenditures Not Included Under HB09-1310*		
Cost Components	FY 2009-10	FY 2010-11
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$14,928	\$14,928
Supplemental Employee Retirement Payments	3,404	4,346
TOTAL	\$18,332	\$19,274

*More information is available at: 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 \$184,733 and 2.2 FTE for FY 2009-10 from the Unemployment Revenue Fund.

Departments Contacted

Labor and Employment

Revenue