


 Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number: LLS 14-0308
Prime Sponsor(s): Sen. Rivera
 Rep. Szabo

Date: February 13, 2014
Bill Status: Senate SVMA
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SHORT TITLE: REPEAL DAMAGES STATE EMPL DISCRIMINATION CLAIMS

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	(\$17,787)	(\$35,822)
General Fund	(14,598)	(29,284)
Centrally Appropriated Costs**	(3,189)	(6,538)
FTE Position Change	(0.2) FTE	(0.4) FTE
Appropriation Required: (\$14,598) - Dept. of Regulatory Agencies (FY 2014-15)		

* This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a decrease in funds.

** These cost decreases are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

For cases filed on and after January 1, 2015, House Bill 13-1136 allowed plaintiffs filing employment discrimination claims against any size employer to seek compensatory and punitive damages in state court after pursuing administrative options through the Colorado Civil Rights Commission or the State Personnel Board. This bill prohibits any award of punitive damages for employment discrimination claims made under state law and compensatory damages for claims made against employers with fewer than 15 employees. A prevailing plaintiff may still be awarded reasonable attorney fees and costs but, if the court finds that the claim was frivolous, the court must award attorney fees and costs to the defendant.

Background

Colorado Civil Rights Division (CCRD). Under state law, a person who believes he or she has been discriminated against in employment must exhaust administrative remedies before filing with a court. To accomplish this, the person must file a charge of discrimination (claim) with the CCRD in the Department of Regulatory Agencies (DORA). The CCRD investigates the claim and its director makes a determination. If a claim is not settled at the CCRD, the person may sue in an appropriate court within 90 days of the determination. The law includes an exemption for certain individuals in ill health for whom pursuing administrative remedies would not provide reasonable and timely relief and would cause irreparable harm.

Federal civil rights law. Under federal law, plaintiffs who prevail in employment discrimination cases may be awarded compensatory and punitive damages and attorney fees. Federal civil rights law only applies to cases against employers with 15 or more employees. An exception is the Age Discrimination in Employment Act (ADEA) which applies to employers with 20 or more employees and allows for the award of attorney fees but not compensatory or punitive damages. ADEA does not apply to claims of age discrimination by persons 70 years of age or older. Claims of employment discrimination on the basis of sexual orientation cannot be brought under federal law.

State Expenditures

This bill is expected to decrease General Fund expenditures for the CCRD in the DORA by \$17,787 and 0.2 FTE in FY 2014-15 and by \$35,822 and 0.2 FTE in FY 2015-16.

Table 1. Expenditures Under SB 14-074		
Cost Components	FY 2014-15	FY 2015-16
Personal Services	(\$9,824)	(\$19,646)
FTE	(0.2)	(0.4)
Operating Expenses and Capital Outlay Costs	(1,131)	(2,261)
Legal Services	(3,643)	(7,377)
Centrally Appropriated Costs*	(3,189)	(6,538)
TOTAL	(\$17,787)	(\$35,822)

* Centrally appropriated costs are not included in the bill's appropriation.

DORA, CCRD. With the passage of HB 13-1136, the CCRD was expected to have an increase of 24 cases per calendar year with staffing and legal services to address that increase. With SB 14-074, that increase in cases is no longer expected, so the corresponding expenditures are reduced as shown in Table 1.

Department of Personnel and Administration, State Personnel Board. The board hears appeals by applicants and employees in the state personnel system. Because HB 13-1136 added some areas of discrimination, the board might have seen a small increase in cases under the bill. This was not expected to require new appropriations, so no corresponding reduction in appropriations is warranted as a result of this bill.

Judicial Branch. The fiscal note for HB 13-1136 assumed that fewer than 150 new employment discrimination cases would be filed in state court and that the increased workload would not require new appropriations. Hence, no reduction in appropriations for the courts is warranted as a result of this bill.

Centrally appropriated costs. Pursuant to a Joint Budget Committee (JBC) 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under SB 14-074*		
Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	(\$1,220)	(\$2,441)
Supplemental Employee Retirement Payments	(682)	(1,523)
Indirect Costs	(1,287)	(2,574)
TOTAL	(\$3,189)	(\$6,538)

**More information is available at: <http://colorado.gov/fiscalnotes>*

Local Government Impact

This bill reduces local government costs for discrimination claims by an undetermined amount. Under HB 13-1136, local governments were expected to see an increase in claims taken to court for discrimination based on age and sexual orientation beginning after January 1, 2015. Because government entities would not have been subject to punitive damage awards, few cases were expected and no estimate of damages was included in the fiscal note. Under SB 14-074, cases for discrimination based on age and sexual orientation could still be brought against a local government, but only if it has 15 or more employees.

Effective Date

The bill takes effect August 6, 2014, if the General Assembly adjourns on May 7, 2014, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2014-15, the DORA requires a General Fund reduction of \$14,598 and a reduction of 0.2 FTE.

State and Local Government Contacts

Regulatory Agencies
Judicial

Law
Counties

Municipalities
Personnel and Administration