

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

Drafting Number: LLS 15-0948
Prime Sponsor(s): Rep. Salazar

Date: April 8, 2015
Bill Status: House Judiciary
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: PERSONNEL FILE RIGHT OF INSPECTION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	Minimal workload increase.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

The bill allows a current or former employee to make a written request to inspect or request copies of his or her personnel file from his or her private-sector employer. The employer must comply within 30 days of the request. The state of Colorado, state political subdivisions, and financial institutions are exempt from this requirement. If the inspection occurs in person, it must take place during regular business hours at a location at or near the employer's offices. If copies are mailed to the employee, the employer must certify in writing the accuracy of the copies and the employee may be required to pay reasonable duplication costs.

An employer is not required to permit personnel file inspection more than once a calendar year, unless: the first request was while the employee was actively employed and the second request is after separation; or a disciplinary action was taken against the employee.

The employee may provide written rebuttal information to the employer to be added and retained in the personnel file. This rebuttal must accompany any transmittal or disclosure of the personnel file to a third-party. If an employer fails to comply with these requirements, the following remedies are available:

- personnel information not included in an inspection or copy may *not* be used by the employer during a judicial or quasi-judicial proceeding;
- the employee is entitled to attorney fees if his or her civil action to obtain a court order requiring the production of personnel file documents prevails;
- in any of these cases, a court or administrative law judge has the discretion to impose a penalty of up to \$100 per day to be paid by the employer to the employee each day after the 30th day that the employer failed to comply with the employee's written request; and
- a court or administrative law judge may also impose additional penalties, not to exceed \$10,000, if the employee can demonstrate an employer's intent to conceal personnel file documents.

State Expenditures

The bill may increase workload in the trial courts of the Judicial Department related to civil actions filed by an employee regarding an employer's compliance with the bill. The number of cases filed is expected to be relatively small and this workload can be absorbed within existing appropriations.

Local Government

The bill may also increase workloads in the Denver County Court, which is funded entirely by the City and County of Denver; however, this workload impact is expected to be minimal.

Effective Date

The bill takes effect January 1, 2016, if no referendum petition is filed.

State and Local Government Contacts

Judicial Department

Labor and Employment