



**Colorado
Legislative
Council
Staff**

SB16-056

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0208
Prime Sponsor(s): Sen. Lambert
Rep. Lee

Date: August 19, 2016
Bill Status: Signed into Law
Fiscal Analyst: Josh Abram (303-866-3561)

BILL TOPIC: ENHANCED WHISTLEBLOWER PROTECTIONS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	Workload increase. See State Expenditures section.	
Appropriation Required: None.		
Future Year Impacts: Ongoing workload increase.		

Summary of Legislation

This bill expands whistleblower protections by creating whistleblower review agencies to determine if information about state operations or conduct provided by a state employee is protected from inspection under the Colorado Open Records Act (CORA), or any other provision of law.

The bill designates the Office of Legislative Legal Services (OLLS), the Department of Law (DOL), and The State Court Administrator in the Judicial Department as whistleblower review agencies. The bill allows a state employee to disclose whistleblower information to the DOL from public records that are confidential under other provisions of law. If the information to be disclosed involves an officer or employee of the DOL, a whistleblower may disclose the information to one of the other review agencies instead. Each review agency is required to designate staff to serve as a point of contact for whistleblowers and to publish the contact information on the agency's website.

Within 30 days following receipt if disclosed information, a review agency must determine in writing if the information is closed to public inspection or must remain confidential. Review agencies must maintain the confidentiality of data if the agency determines that the disclosed information includes trade secrets, or confidential commercial, financial, geological, or geophysical data. If a review agency determines that there is a substantial likelihood that the information received is not confidential under CORA or other law, the review agency is required to notify the owner of the data, if ownership can be determined, that the review agency is in possession of the information. The review agency must then retain the information for at least 30 days following notification to the owner before releasing the information to the General Assembly, or to the public upon request. Owners of information have 30 days following notification to file an action under the

Colorado Rules of Civil Procedure, if the owner believes release of the information will harm him or her. A review agency may confer with and transfer the information to the entity having jurisdiction or authority to investigate any allegation of unlawful behavior.

The governor is required to convene a working group on broadening protections for state employee whistleblowers who may be required to disclose confidential information. The working group consists of representatives of the governor's office, the DOL, and OLLS. The working group will examine the whistleblower protection laws of the federal government and of other states and compare those laws to Colorado's whistleblower protection law as outlined in the bill. The working group must determine the means to broaden whistleblower protections for situations where the subject of whistleblowing involves confidential information that would need to be disclosed. No later than November 1, 2016, the working group shall report its recommendations to the committee on legal services and to the joint budget committee of the general assembly.

The bill is repealed, effective July 1, 2018.

Background

The State Court Administrator (SCA) in the Judicial Department provides administrative support and services to the trial and appellate courts to assist them in providing forums to resolve disputes. It also supports the management of probation services and offender rehabilitation.

State Expenditures

Beginning with FY 2016-17, workload is increased in the Department of Law, the Judicial Department, and the OLLS. Whistleblowers must provide information to the DOL unless the disclosed information concerns executives or employees of the DOL, in which case information may be disclosed to one of the other whistleblower review agencies.

Department of Law (DOL). Assuming the DOL reviews at least one whistleblower case annually, workload increases to coordinate an analysis of the disclosed information, review the information to determine confidentiality, and prepare the required notifications. Although this is expanded workload for the department, staff capacity is estimated as sufficient to implement the bill within existing appropriations. If the bill encourages more state employees to become whistleblowers, the cost to the DOL will increase. Any need for additional appropriations in the department will be handled during the annual budget process.

Judicial Department. The SCA will have increased workload costs for each instance of whistleblower disclosure that concerns officers or employees of the DOL. Each instance is assumed rare and the Judicial Department will only be affected should a whistleblower choose to disclose to the SCA. The Judicial Department does not require additional appropriations to serve as a whistleblower review agency.

Office of Legislative Legal Services. Similar to the SCA, the OLLS will only have increased workload costs for each instance of whistleblower disclosure that concerns officers or employees of the DOL. Each instance is assumed rare and the OLLS will only be affected should a whistleblower choose to disclose to the OLLS. The office does not require additional appropriations to serve as a whistleblower review agency.

Effective Date

The bill was signed into law by the Governor and it took effect on June 10, 2016. The bill applies to disclosures of information at any time on or after the effective date.

State and Local Government Contacts

All Departments