



**Colorado
Legislative
Council
Staff**

HB16-1347

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 16-0049
Prime Sponsor(s): Rep. Danielson
Sen. Ulibarri

Date: June 13, 2016
Bill Status: Postponed Indefinitely
Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: EMPLOYER INFORMATION CONCERNING WAGE LAW VIOLATION

Fiscal Impact Summary	FY 2015-16 <i>(current year)</i>	FY 2016-2017	FY 2017-2018
State Revenue Cash Funds	Potential minimal increase.		
State Expenditures	Minimal workload increase.		
TABOR Impact			Potential minimal increase.
Appropriation Required: None.			
Future Year Impacts: Ongoing minimal increases in state revenue and workload.			

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

This bill requires the Division of Labor (division) in the Colorado Department of Labor and Employment (CDLE) to treat information pertaining to a wage law violation as public record. An employer may designate information submitted to the division as proprietary, a trade secret, or privileged information as long as the director of the division is not bound by the employer's designation. In cases where an employer has exhausted all administrative appeals, the division must treat any notice of citation or notice of assessment that an employer has violated a wage law as public information, unless the information relates to a trade secret. Before releasing any information, the division's director must notify the employer of the potential release. The employer then has 20 days to provide documentation showing that the information to be released represents a trade secret. The director can decide whether or not to keep the information confidential.

Background

In the last two years, CDLE closed 7,215 wage complaint investigations. In the last year, since implementing a tracking system, the division made 78 determinations that an employer violated a wage law. The division receives an average of two requests per month for records related to wage law violations.

State Revenue

Beginning in the current FY 2015-16, this bill may increase state cash fund revenue from fees charged for open records requests by a minimal amount. Under current law, the division may charge \$25 per hour after the first hour for records requests; however, the division rarely charges for open records requests. The fiscal note assumes that requests related to wage law violations will continue at the rate of two per month and that the workload associated with fulfilling a request under the bill and the fee charged will be minimal. Revenue from fees for records requests is credited to the Wage Theft Enforcement Cash Fund in CDLE.

TABOR Impact

This bill may increase state cash fund revenue from fees, which may increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. No TABOR impact is expected in FY 2016-17.

State Expenditures

Starting in the current FY 2015-16, this bill increases workload for CDLE by a minimal amount. Upon receipt of an open records request about an employer that has violated a wage law, the division must notify the employer, review any documents provided by the employer, and make a determination about releasing the information to the public. Due to the low number of records requests the division currently receives, the relatively small fraction of investigations that lead to a finding of a violation, and the current staff resources already assigned to this work, the fiscal note assumes that any increase in workload is minimal and can be accomplished within existing appropriations.

Effective Date

The bill was postponed indefinitely by the Senate Business, Labor, and Technology Committee on May 6, 2016.

Departmental Difference

CDLE estimates a need for an increase of 1.0 FTE including 0.5 FTE Compliance Investigator II to determine what documents submitted are pertinent to the finding of a wage law violation and 0.5 FTE Administrative Assistant III to redact sensitive information from documents that will be released to the public. Their estimate is based on the assumption that open records requests will increase exponentially if the bill becomes law. The fiscal note assumes the division will only be required to take the extra steps described in the bill if the records request relates to an employer that has violated a wage law. In the last year, the division found only about 78 employers in violation and the division currently receives an average of only two open records requests per month. Even if requests increase, the fiscal notes assumes that it is unlikely that a large enough volume of these requests will necessitate extra staff.

State and Local Government Contacts

Information Technology

Judicial

Labor