



**Colorado  
Legislative  
Council  
Staff**

**SB16-070**

**FISCAL NOTE**

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

**Drafting Number:** LLS 16-0005  
**Prime Sponsor(s):** Sen. Neville T.  
Rep. Everett

**Date:** January 29, 2016  
**Bill Status:** Senate Business, Labor & Technology  
**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** PROHIBIT DISCRIMINATION BASED ON LABOR UNION PARTICIPATION

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b>	Potential increase.	
Cash Funds		
<b>State Expenditures</b>	Minimal workload increase.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing potential state revenue and minimal state expenditures increase.		

**Summary of Legislation**

This bill prohibits an employer from requiring employee membership in a labor organization as a condition of employment or from requiring employees to pay dues or fees to a labor organization, charity, or other third party. Standing agreements that violate these prohibitions are made void. The bill also defines all-union agreements as unfair labor practices. Violations by employers are considered unclassified misdemeanors and are subject to civil and criminal penalties of a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Civil remedies include all damages and attorney fees resulting from the violation. The attorney general or the district attorney of each judicial district is responsible for investigating complaints and taking actions to enforce the statute. Federal employers and employees, as well as those covered by the Railway Labor Act, are exempt from the bill.

**Background**

According to the Bureau of Labor Statistics, Colorado had 221,000 union members in 2014 with another 29,000 workers represented by a union on their main job or covered by an employee association or contract while not being members themselves.

The Department of Labor and Employment reports 10 complaints related to unfair labor practices over the last 3 years, though no requests to revoke an all-union agreement or instances in which the director has declared an all-union agreement void.

### **State Revenue**

Beginning in FY 2016-17, the bill may increase state cash fund revenue from fines by a minimal amount. Fine revenue is credited to the Fines Collection Cash Fund in the Judicial Department. The bill creates a misdemeanor penalty punishable by a fine of up to \$1,000. The fiscal note assumes a high rate of compliance by employers and that any increase in state cash fund revenue will be minimal.

### **State Expenditures**

Beginning in FY 2016-17, this bill may increase the workload of the attorney general's office, which is responsible for investigating and prosecuting complaints associated with employer violations. To the extent that the bill increases court filings for employer complaints, the bill may also increase the workload of the Judicial Department. Because the fiscal note assumes a high level of employer compliance, however, it is assumed that these costs will be minimal and can be accomplished within existing appropriations.

### **Local Government Impact**

This bill may increase workload for district attorneys, which are also charged with investigating and prosecuting complaints associated with employer violations; however, it is assumed these costs will be minimal.

The bill establishes a misdemeanor penalty punishable by up to 90 days imprisonment in a county jail, a fine of up to \$1,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined, but is expected to be minimal. The cost to house an offender in county jail varies from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates.

Counties that currently use collective bargaining agreements will be minimally impacted as they make necessary changes to conform with the law.

### **Statutory Public Entity Impact**

Statutory public entities, insofar as these entities require labor union participation, will be minimally impacted by the bill. The Regional Transportation District (RTD), for example, currently deducts compulsory union dues from their employees' salaries. The fiscal note assumes that the workload impact will occur as these entities repeal compulsory union membership in accordance with the bill and make updates to their payroll system.

### **Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense.

Senate Bill 16-070 creates a new misdemeanor crime for employers who require participation with or payment to a labor organization, charity, or other third party as a condition of employment, punishable by 90 days imprisonment in county jail, a fine of up to \$1,000, or both. Under the bill, the Department of Law is responsible for the documentation, investigation, and enforcement of this crime.

Under current law, violation of any section of the Labor Peace Act (Section 8-3-101, *et seq.*, C.R.S.) constitutes a misdemeanor punishable by fine. The fine is \$50 to \$100 for the first convicted offense, and \$100 to \$500 for subsequent offenses, together with costs. In the last two years there have been no charges or convictions under the Labor Peace Act.

**Effective Date**

The bill takes effect July 1, 2016.

**State and Local Government Contacts**

Counties	District Attorneys
Education	Higher Education
Judicial	Labor and Employment
Law	Local Affairs
Municipalities	Office of Information Technology
Personnel	Public Safety
Regulatory Agencies	RTD