

# Amendment 57

Colorado Legislative Council Staff  
**FISCAL IMPACT STATEMENT**

**Date:** September 2, 2008

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**BALLOT TITLE:** ADDITIONAL REMEDIES FOR INJURED EMPLOYEES

<b>Fiscal Impact Summary*</b>	<b>FY 2008-09 through FY 2010-11</b>
<b>State Revenue</b>	\$61,000 to \$1,520,000
<b>State Expenditures</b>	\$139,000 to \$3,583,000
<b>FTE Position Change</b>	1.7 FTE to 43.7 FTE
<b>Local Government Impact:</b> None	

\* *There is no experience available to estimate the number of cases that may be filed with the courts under this measure. The dollars identified provide a range of increased revenue and spending should new case filings with the courts increase by 1 percent to 25 percent. The sources of both revenue and spending are state General Fund and cash funds from fees. See State Revenue and Expenditures section of this fiscal analysis for greater discussion.*

## Summary of Measure

The measure proposes changing Colorado law to require nongovernment employers with ten or more employees to maintain a safe and healthy workplace. The measure gives employees injured on the job the right to sue their employers for damages beyond those paid by workers' compensation insurance if they believe their employers did not maintain safe and healthy workplaces. Courts or juries can award injured employees for actual monetary losses as well as nonmonetary losses such as pain and suffering, emotional distress, inconvenience, mental anguish, and loss of enjoyment of life.

## Background

Under current law, employers with at least one employee must provide workers' compensation coverage for their employees which is the exclusive remedy for workplace injuries. Workers' compensation coverage includes an administrative appeal process and does not allow an employee to sue in court. There are approximately 85,000 workplace injuries that require medical care in Colorado annually. Of those, about 20 percent result in an employee missing more than 3 shifts of work and being paid for the work time lost. The remainder of injuries require medical care only.

**State Revenue and Expenditures**

The measure creates a new right of action in court for employees injured on the job. This right of action is not known to exist in any other state. Presently, there is no experience available to estimate the number of cases that may be filed should the measure be approved. It is possible that all workplace injuries could be litigated under this measure.

As a limited point of reference, the Department of Labor and Employment indicates that approximately 16,600 claims are filed annually which result in lost time payments. If 1 percent of these claims resulted in litigation, court filings would increase by 166 annually. If 10 percent of these claims resulted in litigation, court filings would increase by 1,660. If 25 percent of these claims resulted in litigation, court filings would increase by 4,150.

An increase in court filings will result in an increase in both revenue and spending. New revenue will come from fees assessed to parties involved in each claim or case. New costs will result from additional cases heard by the courts. The source of new revenue and spending will be a combination of state General Fund and cash funds from fees. Table 1 shows both revenue and spending increases if 1 percent, 10 percent or 25 percent of claims filed results in cases litigated. As people become aware of their right of action under this measure, the potential for significant revenue and spending increases is real. It is important to note that the number of cases that will be brought to court cannot be quantified at this time. Any significant increase in the courts' workload resulting from this measure will be addressed through the annual budget process.

<b>Table 1. Annual State Revenue and Expenditures Under Amendment 57*</b>			
	<b>1% of Claims Results in Court Case</b>	<b>10% of Claims Results in Court Case</b>	<b>25% of Claims Results in Court Case</b>
<b>Cases Filed</b>	166	1,660	4,150
<b>New Revenue</b>	\$61,000	\$608,000	\$1,520,000
<b>New Expenditures</b>	\$139,000	\$1,433,000	\$3,583,000
<b>FTE</b>	1.7	17.5	43.7

\* *Table 1 shows only governmental expenditures and does not include costs to private companies.*

**Impact on Colorado Businesses**

The measure has the potential to increase costs for employers because it subjects them to liability for workplace injuries beyond what is now covered by workers' compensation insurance. How the courts interpret the language of the measure and apply it to tort claims, will determine the extent to which employer costs will increase. Interpretations favorable to injured employees clearly will lead to higher costs than those more favorable to employers. Early court actions will influence whether injured workers have incentives to bring suit, whether employers will try to settle claims directly with their employees without going to court and whether injury claims that might not have been covered under workers' compensation will be compensated.