



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 19-0430	Date: February 11, 2019
Prime Sponsors: Sen. Danielson; Pettersen	Bill Status: Senate Judiciary
Rep. Buckner;	Fiscal Analyst: Clare Pramuk 303-866-2677
Gonzales-Gutierrez	clare.pramuk@state.co.us

Bill Topic: EQUAL PAY FOR EQUAL WORK ACT

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input checked="" type="checkbox"/> TABOR Refund (minimal)
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Statutory Public Entity

This bill modifies existing sex-based wage discrimination law and creates new provisions regarding transparency in wages and promotions. It increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$48,246 to the Colorado Department of Labor and Employment.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 19-085

		FY 2019-20	FY 2020-21
Revenue	Cash Funds	-	-
Expenditures	General Fund	\$48,246	\$92,816
	Centrally Appropriated	\$8,792	\$21,631
	Total	\$57,038	\$114,447
	Total FTE	0.6 FTE	1.5 FTE
Transfers		-	-
TABOR Refund	General Fund	-	-

Summary of Legislation

This bill modifies wage discrimination law and creates new provisions regarding transparency in wages and promotions. It removes the authority of the Department of Labor and Employment (CDLE) to enforce sex-based wage discrimination complaints and allows a person to commence a civil action in district court within two years of a violation. A wage differential is allowed where the employer can demonstrate that the wage differential is based on a seniority or merit system, or a system that measures earnings by quantity or quality of production. Employers are prohibited from seeking the wage history of a prospective employee; discriminating or retaliating against a prospective employee for failing to disclose his or her wage history; or prohibiting an employee from disclosing wage information. Employers who violate sex-based wage discrimination law are liable for economic damages and equitable relief and the employee's reasonable costs, including attorney fees and other legal expenses.

The bill also requires employers to make reasonable efforts to notify all current employees of promotion opportunities on the same day and prior to making a promotion decision. Employers are required to disclose an hourly wage rate or range for all job postings. The CDLE has the authority to enforce the wage and promotion transparency provisions and employers are subject to penalties of \$500 to \$10,000 per violation. If an employee who brings suit for wage discrimination also demonstrates a violation of the wage and promotion transparency provisions, the court may order appropriate relief, including a presumption that records not kept by the employer can be considered evidence that the violation was not made in good faith.

State Revenue

The bill may minimally increase state revenue from fines and court filing fees. The revenue increase is assumed to be minimal and has not been estimated. This revenue is subject to TABOR.

Employer fines. The bill allows the CDLE to assess a fine between \$500 and \$10,000 per employer violation related to pay discrimination. The fiscal note assumes that employers will comply with the law and that fine revenue will be minimal. Fines will be deposited into the Employment Support Fund in CDLE.

Court filing fees. The bill may increase revenue from filing fees by a minimal amount. For informational purposes, the civil filing fee for district court is \$235. This fee is deposited into various cash funds in the Judicial Department.

State Expenditures

The bill increases General Fund expenditures for the CDLE by \$57,038 and 0.6 FTE in FY 2019-20 and \$114,447 and 1.5 FTE in FY 2020-21. These costs are shown in Table 2 and explained below. The bill will also increase workload in other agencies as explained below.

**Table 2
Expenditures Under SB 19-085**

	FY 2019-20	FY 2020-21
Department of Labor and Employment		
Personal Services	\$38,080	\$91,391
Operating Expenses and Capital Outlay Costs	\$10,166	\$1,425
Centrally Appropriated Costs*	\$8,792	\$21,631
Total Cost	\$57,038	\$114,447
Total FTE	0.6 FTE	1.5 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Colorado Department of Labor and Employment. The bill requires 1.5 FTE for compliance investigators in the Division of Labor Standards and Statistics to respond to complaints and conduct investigations. This amount has been prorated for the General Fund paydate shift and the bill's effective date in the first fiscal year. The division will also develop rules and a complaint process to implement the bill.

Judicial Department. To the extent that court filings increase, workload in the district courts of the Judicial Department will increase. The fiscal note assumes that employers will comply with the law and that this impact can be accomplished within existing appropriations. For informational purposes, the court would have to see at least 549 new civil cases to require an additional FTE Judicial Officer.

All state agencies. To the extent that a state employee files a civil claim under the bill, an affected state agency will have increased costs to litigate and/or settle the claim. Additional appropriations will be requested through the annual budget process on an as needed basis.

TABOR refund. To the extent this bill increases fines and court filing fees, the bill will increase state General Fund obligations for TABOR refunds in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$8,792 in FY 2019-20 and \$21,631 in FY 2020-21.

Local Government, School District, and Statutory Public Entity

Similar to the state, if an employee of a local government, school district, special district, or statutory public entity files a civil claim under the bill, these entities may see increased costs. Any increases have not been estimated, but are assumed to be minimal.

Effective Date

The bill takes effect January 1, 2020, if no referendum petition is filed. It applies to violations that occur on or after the effective date.

State Appropriations

For FY 2019-20, the bill requires a General Fund appropriation of \$48,246 and an allocation of 0.6 FTE to the Department of Labor and Employment.

State and Local Government Contacts

Counties	District Attorneys	Information Technology
Judicial	Labor	Law
Municipalities	Personnel	Special Districts