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Fiscal Note

Drafting Number: LLS 24-0950 Date: March 1, 2024
Prime Sponsors: Rep. Clifford Bill Status: House Business Affairs & Labor
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Bill Topic: ATTORNEY GENERAL RESTRICTIVE EMPLOYMENT AGREEMENTS

Summary of Fiscal Impact:
State Revenue [ ] State Transfer [ ] Local Government [ ]
State Expenditure [x] TABOR Refund [ ] Statutory Public Entity [ ]

The bill allows the Department of Law to adopt rules related to restrictive employment agreements. The bill increases state workload and potentially revenue beginning FY 2024-25.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill gives the Department of Law rulemaking authority over restrictive employment agreements and makes related changes in definitions to make the recovery of education and training expenses from an employee by an employer subject to existing consumer protection laws overseen by the department.

The bill also increases the penalty amount the department can recover when an employer attempts to enforce a covenant that is void under the law, and makes any non-compete covenant restricting the right of persons to receive compensation for performance of labor for an employer a deceptive trade practice.

State Revenue

The bill may increase state General Fund revenue from penalties and filing fees.

Civil penalties. This bill allows the DOL to recover five times the amount of any recovery or attempted recovery by an employer for training and education expenses in violation of the bill or department rules. Additionally, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation.

damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

**Filing fees.** The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

## State Expenditures

The bill increases state workload in the Department of Law (DOL), the Judicial Department, and the Department of Labor and Employment (CDLE).

**Department of Law.** The DOL will have increased workload to adopt rules. The bill may also expand the number of deceptive trade practices cases pursued by the department. The bill is not expected to significantly increase the number of cases addressed by the department annually. The DOL will review complaints brought pursuant to the bill and prioritize investigations as necessary within the overall number of annual deceptive trade practice complaints and available resources.

**Judicial Department.** The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that employers will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required

**Department of Labor and Employment.** The Division of Labor Standards and Statistics in the CDLE will have a minimal workload increase to update existing rules and guidance to conform with rules adopted by the Attorney General. The division may also experience an increase in public inquiries related to these changes; any corresponding workload increase is dependent on future rules adopted by the DOL, but is assumed to be minimal and not require new appropriations. If this workload exceeds available resources, the CDLE will seek additional funding during the annual budget process.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State and Local Government Contacts

Judicial

Labor

Law

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).