

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 7235
BILL NUMBER: HB 1408

NOTE PREPARED: Jan 12, 2022
BILL AMENDED:

SUBJECT: Prohibition on COVID-19 Vaccine Mandates.

FIRST AUTHOR: Rep. Brown T
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill prohibits a governmental entity or an employer from implementing, requiring, or otherwise enforcing a COVID-19 immunization mandate. It authorizes the Department of Labor (DOL) to: (1) investigate any complaints of a violation; and (2) issue a fine for a violation.

The bill establishes an unlawful employment practice for an employer to require a COVID-19 immunization as a condition of employment or to fail to hire, discharge, penalize, or otherwise discriminate against an employee or prospective employee because of an employee's COVID-19 immunization status. It provides for a civil cause of action if an individual suffers an injury as a result of a violation or threatened violation.

Effective Date: Upon passage.

Explanation of State Expenditures: *All Agencies as Employers:* The bill could increase expenditures for state agencies. Governmental entities, including state educational institutions and state hospitals, may be subject to fines of up to \$1,000 per violation if they discriminate against individuals for refusing to receive the COVID-19 vaccine or if they implement, require, or enforce a COVID-19 mandate for their employees or any other individuals entering their premises.

If the state as an employer requires vaccinations in violation of this bill or takes an adverse employment action against an employee due to vaccination status, the state may be required to pay the following to the prevailing individual in a civil action:

- Actual and consequential damages;
- Reasonable attorney's fees, litigation expenses, and costs;
- Liquidated damages of not more than \$10,000 to the prevailing employee or prospective employee.

[This bill has the potential to impact all agencies as employers, thus impacting all funds that provide operating funds to agency staff.]

Administrative Costs: The bill requires the DOL to take and investigate complaints and allows them to collect fines from private employers and governmental entities who violate the bill. These requirements represent an additional workload [and/or expenditure] on the DOL outside of the department's routine administrative functions, and existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

Additional Information - A decision by the Supreme Court of the United States is currently pending on the federal COVID-19 mandates for healthcare workers and for the Occupational Safety and Health Administration (OSHA) emergency temporary standard (ETS) mandating vaccinations for employees of large employers with 100 or more workers. The DOL enforces federal OSHA law and regulations in the state. Depending on the Supreme Court's decision, the DOL may be put in the position of being required to enforce the federal OSHA COVID-19 vaccine mandate and being prohibited from enforcing a COVID-19 mandate under this bill. [This fiscal note will be updated when more information becomes available.]

Explanation of State Revenues: *Fines:* General Fund revenue could increase through the collection of fines of up to \$1,000 per violation. Private employers and governmental entities that violate the bill may be subject to the fine if they discriminate against individuals for refusing to receive the COVID-19 vaccine or if they implement, require, or enforce a COVID-19 mandate for their employees, customers, or any other individual entering the employer's or governmental entity's premises.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. The proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: See *Explanation of State Expenditures: All Agencies as Employers.*

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$5) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per page) are charged for preparing transcripts or copies of record or certificate under seal.
- A civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit.

State Agencies Affected: Department of Labor, all.

Local Agencies Affected: Trial courts, city and town courts, all.

Information Sources:

Fiscal Analyst: Camille Tesch, 317-232-5293.