

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3521

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JUNE 25, 2024

SUMMARY

- Synopsis:** Establishes occupational heat stress standard and “Occupational Heat-Related Illness and Injury Prevention Protection Program” in DOLWD.
- Type of Impact:** Increase in State expenditures and revenue.
- Agencies Affected:** Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure	Indeterminate, but base spending of \$1.0 million
State Revenue	Indeterminate
Local Expenditure	Indeterminate

- The Office of Legislative Services (OLS) determines that the bill results in an increase in State expenditures of \$1.0 million annually. The bill includes provisions of regulatory scope, compliance, and enforcement that will require additional staffing and oversight. The Governor’s Fiscal Year 2025 budget included an anticipatory \$1.0 million request to fund the provisions of this legislation. While the provisions of the bill will not be in effect until June 1, 2025, spending will be required in advance to establish the regulatory framework to implement the provisions.
- The State, its departments and agencies, and other public employers are included under the definition of employer in this bill. This will result in an indeterminate increase in State and local expenditures to implement the standards in the bill.

- The bill also contains provisions which establish monetary fines for non-compliance. It is not possible to predict the level of non-compliance in the initial stages of the bill's implementation. As such, the impact of this bill on State revenues is indeterminate.

BILL DESCRIPTION

This bill requires the Commissioner of Labor and Workforce Development to establish by rule a heat stress standard that contains the following:

1. a standard that establishes heat stress levels for employers that, if exceeded, trigger actions by employers to protect employees from heat-related illness and injury.
2. a requirement that each employer develop, implement, and maintain an effective heat-related illness and injury prevention plan for employees.

The heat-related illness and injury prevention plan referred to above is required, to the extent permitted by federal law, to be developed and implemented with the meaningful participation of employees and employee representatives, including collective bargaining representatives; will be tailored and specific to the hazards in the place of employment; will be in writing in both English and in the language understood by a majority of the employer's employees, if that language is not English; and will be made available at a time and in a manner set forth by the commissioner in rule, to employees, employee representatives, including collective bargaining representatives, and to the commissioner.

The bill provides that the commissioner may issue a stop-work order against the employer requiring cessation of all business operations of the employer at one or more worksites or across all of the employer's worksites and places of business if the commissioner determines, after either an initial determination as a result of an audit of a business or an investigation pursuant to the bill, that an employer is in violation of the bill's provisions.

Under the bill, after initially creating a heat-related illness and injury prevention plan, employers will be required to conduct an annual review to determine whether revisions to their plans are necessary.

The bill imposes penalties and potential imprisonment for violations of its provisions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received; however, the Governor's Fiscal Year 2025 budget included a \$1.0 million request to fund this bill's provisions.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will generate \$1.0 million in additional State expenditures per year. The bill requires development, promulgation, and enforcement of heat-related standards for both outdoor and indoor labor activities. It also requires the State to develop procedures to comply with the regulations for any employees who are subject to heat stress levels. The OLS estimates that the development and promulgation of the regulations will be the equivalent of one to two full-time equivalent employee resources; however, because the level of compliance activities required by this bill cannot be known in advance, the OLS is using the Governor's budget request of \$1.0

million as an estimate for annual spending. Budget requests subsequent to the initial year's spending will have the benefit of history and can be adjusted upward or downward based on the actual spending activity.

The bill's scope includes all public employers and private employers, requiring the development of heat stress procedures and ongoing compliance with all the applicable provisions. These activities will result in indeterminate increases in State and local expenditures, as the OLS is unable to determine the number of State and local public entities impacted or the specific spending activities required.

The OLS also determines that the effect of the bill's monetary enforcement provisions are indeterminate. The penalty provisions are potentially substantial--for example, adverse retaliatory actions by the employer are punishable by monetary penalties of between \$500 and \$5,000 per day, per employee. Since the actual revenue generated by fines will depend upon the frequency and duration of the violations in each category, it is not possible to calculate these amounts without any historical data.

In addition, the OLS notes that the bill contains a private right of action, which enables an employee to sue an employer, including the State or other public employers for a violation. It is difficult to know how frequently lawsuits would be raised and how often immunity would apply. The private right of action adds an indeterminate potential increase in State and local expenditures.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq).