



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**FINAL  
FISCAL NOTE**

<b>Drafting Number:</b>	LLS 18-0283	<b>Date:</b>	July 31, 2018
<b>Prime Sponsors:</b>	Rep. Everett Sen. Neville T.	<b>Bill Status:</b>	House SVMA
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**Bill Topic:** PROHIBIT DISCRIMINATION LABOR UNION PARTICIPATION

**Summary of Fiscal Impact:**

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

This bill concerned the prohibition of mandatory employee membership in a labor organization, with certain exceptions, and would have created penalties. It would have potentially increased state and local revenue from fines and fees, and increased state workload. The bill could have impacted statutory public entities that require union participation. These impacts would have been ongoing.

**Appropriation Summary:** No appropriation was required.

**Fiscal Note Status:** This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1  
State Fiscal Impacts Under HB 18-1030**

		FY 2018-19	FY 2019-20
<b>Revenue</b>	Cash Funds	< \$5,000	< \$5,000
<b>Expenditures</b>			
<b>Transfers</b>			
<b>TABOR Refund</b>	General Fund	< \$5,000	< \$5,000

## **Summary of Legislation**

This bill prohibits an employer from requiring employee membership in a labor organization as a condition of employment and from requiring employees to pay dues or fees to a labor organization, charity, or other third party. Standing agreements that violate these prohibitions are made void. The bill also defines all-union agreements as unfair labor practices. Violations by employers are considered unclassified misdemeanors and are subject to civil actions and criminal penalties of a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Civil remedies include all damages and attorney fees resulting from the violation. The Attorney General or the district attorney of each judicial district is responsible for investigating complaints and taking actions to enforce the statute. Federal employers and employees, as well as those covered by the Railway Labor Act, are exempt from the bill.

## **Background and Comparable Crime**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. House Bill 18-1030 creates a new unclassified misdemeanor crime for employers who require participation with or payment to a labor organization, charity, or other third party as a condition of employment, punishable by a fine up to \$1,000, imprisonment in county jail for up to 90 days, or both. Under current law, violation of any section of the Labor Peace Act constitutes a misdemeanor punishable by a fine. The fine for Labor Peace Act violations ranges from \$50 to \$100 for the first convicted offense, and \$100 to \$500 for subsequent offenses, together with costs. In the last three years, there have been no charges or convictions under the Labor Peace Act. The Department of Labor and Employment has received three complaints related to unfair labor practices over the last two years. There have been no requests to revoke an all-union agreement or instances in which the director has declared an all-union agreement void.

According to the Bureau of Labor Statistics, Colorado had 238,000 union members in 2016, with another 25,000 workers represented by a union on their main job or covered by an employee association or contract while not being members themselves.

## **State Revenue**

Beginning in FY 2018-19, this bill may minimally increase state cash fund revenue from criminal fines and court and administrative fees.

**Criminal fines.** The bill creates a misdemeanor penalty punishable by a fine of up to \$1,000, credited to the Fines Collection Cash Fund in the Judicial Department. The fiscal note assumes a high rate of compliance by employers and that any increase in state cash fund revenue will be less than \$5,000 per year.

**Court and administrative fees.** To the extent new cases go to court, fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court, and may include such items as genetic testing, victim compensation, and late fees, among others. There is also a \$50 per offender per month probation supervision fee. Some fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

## **TABOR Refund**

This bill minimally increases state revenue from fines and fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

## **State Expenditures**

Beginning in FY 2018-19, this bill may increase workload in the Department of Law, which is responsible for investigating and prosecuting complaints associated with employer violations, and in the Department of Labor and Employment, to answer questions from employers about the law. To the extent that the bill increases court filings for employer complaints, the bill may also increase the workload of the Judicial Department. Because the fiscal note assumes a high level of employer compliance, however, it is assumed that these workload increases will be minimal and can be accomplished within existing appropriations.

## **Local Government Impact**

This bill affects local governments in the following ways:

**Local government workload.** This bill may increase workload for district attorneys, who are charged with investigating and prosecuting complaints associated with employer violations. It may increase workload for the Denver County Court, managed and funded by the City and County of Denver, to try new misdemeanor cases. Probation services in the Denver County Court may also experience a minimal increase in workload to supervise persons convicted under the bill. Counties that currently use collective bargaining agreements will be minimally impacted as they make necessary changes to conform with the law. It is assumed these costs will be minimal.

**Criminal fine revenue.** This bill may increase revenue by a minimal amount for Denver City and County. Under the bill, an offender may be fined up to \$1,000.

**Court and administrative fees.** Similar to the state, court and administrative fee revenue may increase. In the City and County of Denver, probation fee revenue may increase by \$50 per month, per offender. Revenue may increase by a minimal amount as a result of any court and administrative fees shared with the state.

**County jail expenditures.** To the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under the bill, a court may sentence an offender to jail for up to 90 days. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. It is assumed that the impact of this bill will be minimal.

**Statutory Public Entity Impact**

Statutory public entities, insofar as these entities require labor union participation, will be minimally impacted by the bill. The Regional Transportation District (RTD), for example, currently deducts compulsory union dues from their employees' salaries. The fiscal note assumes that the workload impact will occur as these entities repeal compulsory union membership in accordance with the bill and make updates to their payroll system. Should RTD repeal compulsory union membership, it may no longer be in compliance with federal requirements and may lose federal grant funds as a result.

**Effective Date**

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on January 24, 2018.

**State and Local Government Contacts**

Counties  
Information Technology  
Law  
Personnel  
Regulatory Agencies

Education  
Judicial  
Local Affairs  
Public Safety

Higher Education  
Labor  
Municipalities  
RTD