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Fiscal Note

Drafting Number: LLS 23-0467
Prime Sponsors: Rep. Sirota
Sen. Hinrichsen

Date: January 27, 2023
Bill Status: House Health & Insurance
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Bill Topic: **PROHIBIT DIRECT-HIRE FEE HEALTH-CARE STAFF AGENCY**

Summary of Fiscal Impact:

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

The bill prohibits a health-care staffing agency from seeking compensation when a contracted employee is hired as a permanent employee to a health-care facility. It will increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$94,133 to the Department of Labor and Employment.

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

Table 1
State Fiscal Impacts Under HB 23-1030

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$94,133	\$42,062
	Centrally Appropriated	\$34,552	\$16,618
	Total Expenditures	\$128,685	\$58,680
	Total FTE	1.0 FTE	0.5 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$14,120	\$6,309

Summary of Legislation

This bill prohibits a health-care staffing agency from requiring costs, fees, or damages when a contracted employee is hired as a permanent employee to a health-care facility or assisted living residence. The bill creates a civil penalty of up to a \$500 fine for any violation with repeated violations leading to monetary or administrative penalties against the staffing agency. The bill specifies enforcement procedures for the Department of Labor and Employment.

Background

Temporary staffing firms often charge direct-hire fees when a customer, such as a health-care facility or assisted living residence, hires a temporary employee for a permanent position. These are known as “conversion fees” or “liquidated damages.”

Assumptions

The fiscal note assumes CDLE will review 100 health care staffing contracts annually, which will take an average of 10 hours of work per contract.

State Revenue

Beginning in FY 2023-24, the Division of Labor Standards and Statistics (DLSS) in CDLE may experience a minimal increase in revenue as a result of fines. The fiscal note assumes that most staffing agencies will comply with the law.

State Expenditures

The bill increases General Fund expenditures by \$128,685 in FY 2023-24 and \$58,680 in FY 2024-25. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1030

	FY 2023-24	FY 2024-25
Department of Labor & Employment		
Personal Services	\$80,307	\$38,484
Operating Expenses	\$1,350	\$675
Capital Outlay Costs	\$6,670	-
Software Licenses	\$5,806	\$2,903
Centrally Appropriated Costs ¹	\$34,552	\$16,618
Total Cost	\$128,685	\$58,680
Total FTE	1.0 FTE	0.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Labor & Employment. Beginning in FY 2023-24, the CDLE requires funding for staff and technology costs to establish new procedures and review contracts.

- **Staff.** CDLE requires 0.5 FTE annually for a Compliance Investigator II to review contracts, determine compliance, and assess any fines and penalties, assuming the investigator will review 100 contracts annually and perform 10 hours of work per contract. In addition, CDLE requires 0.5 FTE in FY 2023-24 only for a Policy Advisor V to help establish procedures for reviewing contracts, determining fines, and assessing penalties. First-year costs are prorated for the General Fund pay date shift. Standard operating and capital outlay costs are included.
- **Software licenses.** CDLE requires \$5,806 in FY 2023-24 and \$2,903 in FY 2024-25 and subsequent years for software licenses for the new staff. These licenses are not included in standard operating costs for new staff.
- **Legal services.** CDLE requires legal services hours to support rulemaking related to the bill's requirements. The increase is expected to be accommodated within current allotment. No change in appropriations is required. Legal services are provided by the Department of Law.

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 shown in Table 2.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of \$94,133 to the Department of Labor and Employment and 1.0 FTE.

State and Local Government Contacts

Counties	Health Care Policy and Financing	Human Services
Information Technology	Judicial	Labor
Public Health and Environment	Regulatory Agencies	