

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 10-0208
Prime Sponsor(s): Sen. Tochtrop
 Rep. Pace

Date: June 7, 2010
Bill Status: Signed into Law
Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING INCREASED PENALTIES FOR VIOLATIONS OF THE WORKERS' COMPENSATION LAWS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
Cash Funds		
Workers' Compensation Cash Fund	Possible increase	Possible increase
Subsequent Injury Fund Cash Fund	(\$60,000)	(\$60,000)
State Expenditures		
FTE Position Change		
Effective Date: The Governor signed the bill into law on May 26, 2010, and unless a referendum petition is filed, the bill will take effect August 11, 2010.		
Appropriation Summary for FY 2010-2011: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill increases the maximum penalty for violating workers' compensation laws from \$500 to \$1,000 per day of violation. It lowers the standard for determining when benefits are wrongfully withheld by an insurer or self-insured employer from acting "willfully" to "knowingly". Under current law, 75 percent of a penalty is paid to the injured worker and 25 percent to the Subsequent Injury Fund. Under SB10-012, penalties will be apportioned at the discretion of the director of the Division of Workers' Compensation or an administrative law judge between the injured worker who will receive a minimum of 50 percent, and the Workers' Compensation Cash Fund.

Background

The Subsequent Injury Fund (SIF) was established in 1945 to encourage employers to hire persons with pre-existing work-related disabilities, especially veterans who had been seriously injured during World War II. The SIF accomplished this by eliminating the liability of a current employer for the continuing effects of an employee's preexisting work-related injury. The SIF is closed to new claims but continues to pay benefits on existing claims. The SIF is primarily funded

through the workers' compensation insurance premium surcharge but receives 25 percent of the approximately \$240,000 of penalties collected for violation of workers' compensation law which equals about \$60,000 per year.

State Revenue

Cash funds revenue to the Subsequent Injury Fund in the Department of Labor and Employment is expected to decrease by \$60,000 in both FY 2010-11 and FY 2011-12. Revenue to the Workers' Compensation Cash Fund may increase but the amount of any increase cannot be determined. Although the bill increases maximum penalties, the apportionment of penalty amounts is discretionary and may result in only a nominal amount being allocated to the cash fund.

State Expenditures

No increases in expenditures are expected from this bill. The director of the Division of Workers' Compensation and administrative law judges will be responsible for the apportionment of penalties, but these are not expected to significantly impact their workloads.

As a self-insured employer, the state has not been penalized for violations of workers' compensation law and no future penalties are anticipated. Hence, no additional expenditures are expected from the increased penalty provisions.

Local Government Impact

Local governments that self-insure for workers' compensation are subject to the increased penalty provisions. The fiscal note assumes that any increase in penalties would be minimal.

Departments Contacted

Labor and Employment

Personnel and Administration