



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1751

PRINTER'S NO. 2324

PRIME SPONSOR: Donahue

COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	See Fiscal Impact	See Fiscal Impact
Worker's Compensation Administration Fund	See Fiscal Impact	See Fiscal Impact
Special Administration Fund	See Fiscal Impact	See Fiscal Impact

SUMMARY:

Amends Act 72 of 2010, known as the Construction Workplace Misclassification Act, to add definitions, increase penalties, and create a private right of action.

ANALYSIS:

House Bill 1751, Printer's Number 2324, amends the Construction Workplace Misclassification Act (Act 72 of 2010) to allow the secretary of the Department of Labor and Industry (L&I) to debar any contractor or subcontractor to a public works project for misclassifying an employee. A debarment would also apply to any successor entities to the contractor or subcontractor. A successor entity is defined to include an entity that shares principals, staff, premises, equipment, phone numbers, or email or web addresses with the debarred entity and that engages in substantially similar work in the same geographic region.

The bill allows the secretary to make referrals to the Office of Attorney General (OAG) for criminal investigations for violations of the act while maintaining OAG's right to independently initiate such investigations. The bill increases the criminal penalties for violation of the act, making first time violations a misdemeanor of the first degree (up to five years imprisonment and/or a \$10,000 fine and subsequent offenses a felony of the third degree (up to seven years imprisonment and/or a \$25,000 fine).

This bill would also provide a private right of action for employees who have been misclassified or have suffered retaliation for reporting a violation of the act or for participating in an investigation of an alleged violation of the act.

Finally, the bill would redirect any administrative penalties assessed for violations of the act from the Worker's Compensation Administration Fund or the Special Administration Fund to a restricted revenue account in the General Fund to be used for future enforcement of Act 72.

FISCAL IMPACT:

According to the Department of Labor and Industry, the department assessed administrative penalties totaling approximately \$263,000 in 2022 for violations of Act 72. While it is not possible at this time to accurately forecast the total administrative penalties that would be assessed in future years, this serves as a reasonable baseline for future penalty revenues. Any administrative penalties assessed in the future would be redirected from the Worker's Compensation Administrative Fund or the Special Administration Fund to a restricted revenue account within the General Fund. The funds deposited in the restricted revenue account would be used to defray the department's costs for enforcing Act 72. Data are not available to reliably estimate how many individuals may be convicted and sentenced for an offense under

this legislation. However, it should be noted that the marginal annual cost to incarcerate an additional inmate in a state correctional institution was \$15,213 in FY 2021/22. This cost assumes that fewer than 300 additional individuals were incarcerated. Offenders with a maximum sentence of less than two years are typically sent to a county jail. Marginal costs are not available for county facilities, but the average annual cost to incarcerate someone in a county jail in calendar year 2022 was \$43,701.

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House Appropriations Committee (D)

DATE: December 11, 2023

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.