## **Consolidated Fiscal Note**

2023-2024 Legislative Session

## HF23 - 0 - Safe Workplaces for Meat and Poultry Processing

Chief Author: Dan Wolgamott

Commitee: Labor and Industry Finance & Policy

Date Completed:

Lead Agency: Labor and Industry Dept

Other Agencies:

**Employment and Economic** 

Dvlpmt

State Fiscal Impact	Yes	No
Expenditures	Х	
Fee/Departmental Earnings	Х	
Tax Revenue		Х
Information Technology	Х	
Local Fiscal Impact		

Local Fiscal Impact	Х	
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This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)			Biennium		Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Labor and Industry Dept	•				-	
General Fund		-	360	169	169	169
State Total		_	_	_	_	
Administrative Hearings		-	-	-	-	-
General Fund		-	360	169	169	169
	Total	_	360	169	169	169
	Bien	nial Total		529		338

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Labor and Industry Dept		•	,		
General Fund	-	1	1	1	1
Total	-	1	1	1	1

**Lead LBO Analyst's Comment** 

LBO Signature: Date: Phone: Email:

## State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

<sup>\*</sup>Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	<del>-</del>	-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Labor and Industry Dept						
General Fund		-	360	169	169	169
	Total	-	360	169	169	169
	Bier	nial Total		529		338
1 - Expenditures, Absorbed Costs*, Tran	nsfers Out*					
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	16	4	4	4
Labor and Industry Dept					-	
General Fund		-	360	169	169	169
	Total	-	376	173	173	173
	Bier	nial Total		549		346
2 - Revenues, Transfers In*						
Administrative Hearings		-	-	-	-	-
Administrative Hearings	,	-	16	4	4	4
Labor and Industry Dept						
General Fund		-	-	-	-	-
	Total	-	16	4	4	4
	Bier	nial Total		20		8

2023-2024 Legislative Session

## **Fiscal Note**

## HF23 - 0 - Safe Workplaces for Meat and Poultry Processing

Chief Author: **Dan Wolgamott** 

Commitee: **Labor and Industry Finance & Policy** 

Date Completed:

Labor and Industry Dept Agency:

State Fiscal Impact	Yes	No
Expenditures	х	
Fee/Departmental Earnings	х	
Tax Revenue		X
Information Technology	х	
•		
Local Fiscal Impact	¥	

Χ

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)			Biennium		Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	_	-	360	169	169	169
	Total	-	360	169	169	169
	Bier	nnial Total		529		338

Full Time Equivalent Positions (FTE)		Biennium		Biennium Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	1	1	1	1
Total	_	1	1	1	1

## **LBO Analyst's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm Date: 1/18/2023 9:31:36 AM Phone: 651-296-6055 Email: karl.palm@lbo.mn.gov

#### State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

<sup>\*</sup>Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2	tate Cost (Savings) = 1-2		Biennium		Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	360	169	169	169
	Total	-	360	169	169	169
	Bier	nnial Total		529		338
1 - Expenditures, Absorbed Costs*, Tra	nsfers Out*					
General Fund		-	360	169	169	169
	Total	-	360	169	169	169
	Bier	nnial Total		529		338
2 - Revenues, Transfers In*						
General Fund		-	-	-	-	-
	Total	-	-	-	-	-
	Bier	nnial Total		-		-

## **Bill Description**

This bill establishes 179.87 to 179.8757 as the Safe Workplaces for Meat and Poultry Processing Workers Act (Act) providing for definitions; appointment of a worker-rights coordinator at the Department of Labor and Industry; worker safety and employment protections; worker unemployment insurance eligibility; enforcement and compliance of the Act; employer retaliation prohibitions; worker safety and training program requirements; employer and coordinator notification requirements; and appropriations. Sections 1 and 2 provide for the title of the Act and applicable definitions.

Section 3 [179.8715] directs the commissioner of the Department of Labor and Industry to appoint a meatpacking industry worker-rights coordinator and provide office support for that position to enforce the Act including: conducting inspections of and recommending improvements to meatpacking operations, practices and procedures in Minnesota; providing meatpacking industry employer notifications; and drafting and submitting a report to the governor and legislature on recommendations to promote better treatment of meat-processing workers.

Section 4 [179.872] creates a worker right for meat-processing workers to refuse to work under conditions the worker reasonably believes would expose themselves, other workers, or the public to an unreasonable risk of illness or injury including exposure to COVID-19. The meat-processing employer cannot discriminate or take adverse action against the worker for the refusal to work if the worker requested the employer correct the hazardous condition and it remains uncorrected. A worker who refused to work and has not been reassigned to other work has a right to continued employment and their pay for the hours they would have worked until the employer can demonstrate the hazardous condition has been remedied.

Section 5 [179.874] establishes unemployment insurance eligibility criteria related to meat-processing workers leaving employment because the employer failed to cure a working condition that made the work environment unsuitable for health or safety.

Section 6 [179.875] establishes enforcement and compliance remedies including administrative enforcement, private civil action, or other government enforcement through the attorney general, city, or county attorneys.

Subd. 1. Provides authority for the coordinator to inspect a meatpacking operation and subpoena records and witnesses.

Subd.2. Provides authority for the commissioner of the Department of Labor and Industry to issue a compliance order under section 177.27, subdivision 4, for violations of the Act. Section 177.27, subdivision 4, provides the process for service of a compliance order on an employer and the employer's right to object to an order within 15 days, initiating a contested case proceeding.

Subd. 3. Provides a private right of action within three years of the alleged violation.

Subd. 4. Provides enforcement authority to the attorney general, a city or county attorney

Subd. 5. Civil or administrative actions can result in an injunction to compel compliance or restrain further violations through stop-work orders or business closures; allows for employer payments to workers for reasonable costs, disbursements, and attorney fees; and a civil penalty payable to the state of not less than \$100 per day per worker affected by the employer's noncompliance with the Act. Further, for violations of section 4 of the bill, 179.872 refusal to work under dangerous conditions, an employer may be required to reinstate the worker to the same or equivalent position; restore full seniority rights and fringe benefits; provide compensation for unpaid wages, benefits, and front pay; and pay compensatory damages payable to the aggrieved worker equal to the greater of \$5,000 or twice the actual damages, including unpaid wages, benefits or other remuneration, and punitive damages.

Subd. 6. Allows whistle blower enforcement and penalty assessment through private civil action brought on behalf of the commissioner by another individual (including an authorized employee representative) but requiring that the said individual provide written notice to the coordinator of the provision of the Act to have allegedly been violated. That civil action may commence if no enforcement action is taken by the coordinator within 30 days. Any civil penalties recovered pursuant to this subdivision of this section must be distributed at 70 percent to the Department of Labor and Industry for enforcement of sections 179.87 to 179.8757 and 30 percent to the individual or authorized employee representative that brought the action.

Section 7 [179.8755] prohibits discrimination or adverse actions taken against any employee or whistle blower who reports to anyone concerns about meatpacking operation health and safety concerns. The law creates a rebutable presumption that any adverse action against a worker within 90 days of the worker's engagement in activities protected by the Act is retaliatory. This section bans any attempt to require a worker sign a contract or agreement to limit the worker's right to disclose workplace health and safety hazards and practices and defines any such an attempt as an adverse action. Further, reporting or threatening to report a meat-processing worker or a worker's family member suspected immigration status constitutes an adverse action and violation. If a worker brings a complaint of a violation of the Act and has been retaliated against, they are entitled to treble damages, lost pay, and attorney costs. A company found to have retaliated against a food processing worker must pay a fine (not articulated in the bill) to the Department.

Section 8 [179.8756] requires meat-processing employers to establish a worker-safety program as part of their work accident and injury reduction program to minimize and prevent musculoskeletal disorders. It requires the program establish a committee to administer and the employer deliver training to workers and that it records and keep record of worker-safety training completion. The commissioner must adopt rules requiring employers to maintain accurate records of meat-processing worker exposure to ergonomic hazards and the coordinator may access and publish a summary of employer records.

In subdivision 8 of this section, it's prescribed safety measures required in meatpacking operations during a pandemic and public health emergency and reporting of illness and injuries. Included with safety and sanitation, this section requires the accrual, utilization, banking, and transferability of paid sick leave for workers and requiring employers provide written notice in the language fluent to the worker. Paid sick leave rights provided (1 hour per 30 worked) for illness or injury or care for a family member compensated at the worker's same hourly rate or benefits. Employer can advance the sick leave at the "beginning of the year" or start of worker's employment. Meatpacking employers must carry over workers paid sick leave balance into the next year. Workers may opt to receive a pay out of the benefit. Employer must keep records of leave accrual and use for 3 years. Paid sick leave accruals survive operation ownership change. [Employers are prohibited from requiring workers to disclose the details that give rise to utilizing the paid leave. Employers must provide notice to workers about their rights to leave at the beginning of employment in the language the worker speaks fluently. In addition, there is a posting requirement of these rights in each facility in a conspicuous place in English, or a language of fluency read or spoken by at least 5 percent of the employer's workforce. An employer may adopt a paid sick leave benefit more generous that those benefits outlined in this bill.

Section 9 [179.8757] states that meat-processing employers must provide written information and notifications about employee rights under section 179.86 and sections 179.87 to 179.8757 to workers in their language of fluency at least annually and requires the Department's worker-rights coordinator inform covered employers under 179.87 to 179.8757 about any updates at least annually. Further, instructs the Department to post information to its website explaining the law and that the posting must be accessible and in at least English and Spanish and any other language that at least 10 percent of meat-processing workers communicate in fluently.

Section 10 appropriates \$344,000 in fiscal year 2024 and \$147,000 in fiscal year 2025 from the general fund to DLI for implementation of the bill for those fiscal years.

#### **Assumptions**

To perform the work outlined in the bill, the Department anticipates the need for resources to field inquiries; perform complaint intake; conduct in-person inspections to investigate and resolve violations; develop, publish, and disseminate communications resources; perform outreach and engagement; and compile and submit reports.

The bill establishes unemployment insurance eligibility criteria related to meat-processing worker leaving employment. This falls under the purview of DEED.

#### Coordinator Appointed:

As instructed by the bill, the commissioner of DLI will appoint a worker-rights coordinator to perform compliance and communication work. DLI anticipates creating and hiring a new position as the coordinator beginning in FY2024 to be housed within the Labor Standards and Apprenticeship Division. The coordinator position's time will be divided between intake, compliance, reporting, and outreach work explained below as they relate to the provisions of the Act. DLI expects this position to be hired as a State Program Admin Coordinator (MAPE 18L).

#### Outreach & Engagement:

The number of meatpacking and poultry processing facilities in Minnesota is estimated to be 126 with nearly 17,500 workers associated as of 2021. This bill requires outreach and engagement to make workers as well as employers impacted by the Act aware of their rights and responsibilities. This will require development of informative resources and dissemination of that information throughout the year on an ongoing basis. The Department will disseminate information related to the Act and the responsibilities of employers at least once annually. Outreach costs include development, design, printing, translation of materials, mail-fulfillment, travel, event fees and associated costs, and marketing efforts. DLI estimates this cost to be \$50,000 in FY24 for these activities. The Department will also update its website as appropriate with resources in multiple languages consistent with the provisions of this bill. The coordinator will work in concert with the existing Department communications staff to develop materials and to perform outreach and engagement related activities annually.

#### Inquiries:

The Department anticipates it will receive inquiries about the provisions of the Act. However, it is likely that the number of inquiries will represent a small number of workers impacted. For the purposes of this note, the Department estimates that it will receive 175 inquiries annually, a figure which represents 1% of total workers in that sector. The Department estimates the inquiry work performed by the coordinator will be immaterial in cost.

## Compliance:

The Department will receive complaint allegations of workplace safety or labor standards violations related to the Act. It is assumed that if a worker-safety issue is reported to or identified by the coordinator, it will be referred to DLI's OSHA Compliance program for further investigation and abatement of the safety hazard. The OSHA Compliance program would take these issues as referrals and apply and enforce its own regulatory standards. DLI assumes these referrals would not result in additional costs to the OSHA Compliance program because it currently has jurisdiction to enforce existing OSHA standards in these workplaces. OSHA data shows that it completed 6 inspections of meat-processing operations in FFY2022. Based upon this data, we estimate that the coordinator will inspect a higher number due to outreach visibility. We expect to double the total number of inspections to 12 investigations annually. The coordinator position will utilize inspections, subpoenas of records and worker and witness interviews to identify and address violations of the Act. Approximately 7 of these investigative inspections will have complexity requiring planning, logistics, records review and analysis, employer and witness interviews and statements, calculations, findings, and case dispute resolution. Similarly, 4 inspection/investigations will have the same elements as those of the previous group but require additional time due to number of workers involved, as well as added complexity in accessing, gathering, and securing information to aid in proving a violation and efforts to bringing about compliance and amicable resolution. It is assumed most investigative inspections will be addressed and ultimately resolved informally due to the breath of relief possible.

7 inspections / investigations x 60 hours = 420 hours

4 inspections / investigations x 80 hours = 320 hours

1 inspection / investigation x 120 hours = 120 hours

Total inspection / investigative Hours = 860 hours (0.4 FTE)

To gain compliance from the employer, the Department assumes one complaint investigation annually would require action at the Office of Administrative Hearings (OAH). The Department would be represented by the state attorney general's office in such actions. DLI assumes only one case every four years would go to hearing and require 55 hours of administrative law judge (ALJ) time at the currently approved billable rate of \$245 per hour. The other three years appeals to OAH are resolved before hearing and average 3 hours of ALJ time. The total annual estimated costs for OAH are \$3,920.

This Act empowers the coordinator to assess penalties as part of the position's compliance work. The penalties authorized in this bill are new and are different than existing records penalties the unit assesses for employer violations of failing to maintain or failure to submit records to the Department. DLI assumes \$1,000 for the average civil penalty payable to the State and \$1,000 for the retaliation penalty amount. On average, DLI collects a penalty in 3.5% of investigations. Therefore, DLI assumes the collection of \$420 annually in penalties. (12 investigations x 3.5% = 0.42) (\$1,000 x 0.42 = \$420 collected annually)

## Case Management / IT:

DLI anticipates the worker-rights coordinator will require case-management technology to perform the work of recording, routing, and tracking complaints and inspections as well as producing reports. DLI assumes it will integrate these capabilities into the existing program. DLI anticipates that it will have a one-time cost of \$15,000 for OnBase IT Adjustments and an additional \$1,000 on-going cost for the annual license.

### Reporting:

This bill requires an annual report to be researched, drafted, and delivered to the governor and legislative branch. The new worker-rights coordinator will take the lead role in managing and preparing the annual report. DLI's Research and Statistics (R&S) unit will assist the worker-rights coordinator in studying materials, analyzing data, and reviewing the final report. This function will be immaterial and at no additional cost.

#### Rulemaking:

DLI is required to adopt rules and assumes rulemaking to clarify how it will enforce the Act. DLI assumes one medium rulemaking at \$134,876 in FY2024.

## **Expenditure and/or Revenue Formula**

State Prog Admin Coord (MAPE 18L)	2024	2025	2026	2027
FTE	1	1	1	1
Salary per FTE (midpoint)	88,262	93,635	93,635	93,635
Fringe Benefits (35% of Salary)	30,892	32,772	32,772	32,772
Indirect (22.89% of Salary/Fringe)	27,274	28,935	28,935	28,935
Salary/Fringe/Indirect	146,428	155,341	155,341	155,341
Non-Personnel Services	8,560	8,624	8,624	8,624
Cumulative Cost	154,987	163,965	163,965	163,965

Cumulative Expenditures	2024	2025	2026	2027
State Prog Admin Coord (MAPE 18L)	154,987	163,965	163,965	163,965
OAH Legal Fees	3,920	3,920	3,920	3,920
Outreach/Materials/Translations	50,000			
IT OnBase Adjustments	15,000			
IT Case Mgmt User License/Maint	1,000	1,000	1,000	1,000

Medium Rulemaking	134,876			
Cumulative Expenditures	359,783	168,885	168,885	168,885

## **Long-Term Fiscal Considerations**

NA

## **Local Fiscal Impact**

This bill provides city or county attorneys enforcement authority of sections 179.87 to 179.8757 including inspection of meatpacking operations and subpoena records and witnesses and bringing civil actions when violations are found. It is assumed that some local jurisdictions may incur costs related to enforcement activities.

## References/Sources

Sourced: Quarterly Census on Employment and Wage

Annual averages for 2021

Number of meatpacking and poultry operations in MN

Other than poultry 99

· Poultry 18

· Total 117

Number of workers that are working in these operations in MN

Other than poultry 10,657

Poultry 6,338

· Total 16,995

Agency Contact: Sara Ellstra 651-478-8148

Agency Fiscal Note Coordinator Signature: Jacob Gaub Date: 1/18/2023 8:48:36 AM

Phone: 652-284-5812 Email: jacob.gaub@state.mn.us

2023-2024 Legislative Session

## **Fiscal Note**

## HF23 - 0 - Safe Workplaces for Meat and Poultry Processing

Chief Author: Dan Wolgamott

Commitee: Labor and Industry Finance & Policy

Date Completed:

Agency: Administrative Hearings

State Fiscal Impact	Yes	No
Expenditures	х	
Fee/Departmental Earnings	х	
Tax Revenue		X
Information Technology		х
•		
Local Fiscal Impact		×

Local Fiscal Impact

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Tota	-	-	-	-	-
В	iennial Total		-		-

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

### **LBO Analyst's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature:Chloe BurnsDate:1/13/2023 3:44:49 PMPhone:651-297-1423Email:chloe.burns@lbo.mn.gov

#### State Cost (Savings) Calculation Details

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<sup>\*</sup>Transfers In/Out and Absorbed Costs are only displayed when reported.

tate Cost (Savings) = 1-2		Biennium		Biennium		
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
	Total	-	-	-	-	-
	Bier	nnial Total		-		-
1 - Expenditures, Absorbed Costs*, Tran	sfers Out*					
Administrative Hearings		-	16	4	4	4
	Total	-	16	4	4	4
	Bier	nnial Total		20		8
2 - Revenues, Transfers In*						
Administrative Hearings		-	16	4	4	4
	Total	-	16	4	4	4
	Bier	nnial Total		20		8

## **Bill Description**

HF23 provides for the establishment of the Safe Workplaces for Meat and Poultry Processing Workers Act directing the commissioner of the Department of Labor and Industry (DLI) to appoint a meatpacking industry worker rights coordinator who will be responsible for improving treatment of meat processing workers. Sec. 6, Enforcement and Compliance, provides DLI with compliance authority.

The legislation also authorizes DLI to conduct rulemaking to implement the provisions of 179.87 to 179.8757, Safe Workplaces for Meat and Poultry Processing, and Sec. 8, Subd. 7, Rulemaking required.

## **Assumptions**

The Office of Administrative Hearings (OAH) has used DLI's estimate to project that three matters will be appealed to OAH annually under Sec. 6, Enforcement and Compliance. In addition to the three annual appeals, OAH estimates that once every four years an appeal will result in a hearing.

OAH assumes that one hearing every four years will require an estimated 55 hours of administrative law judge (ALJ) time at the currently approved billable rate of \$245 per hour. The remaining three matters appealed to OAH, but that are resolved before hearing average three hours of ALJ time.

DLI assumes a program of this size will require one medium rulemaking at \$134,876 in FY2024. Based on past practices, OAH assumes that a medium rulemaking under chapter 14 will require an estimated 50 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$134,876, \$12,250 is for the estimated 50 hours of ALJ time for a medium rulemaking.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)).

### **Expenditure and/or Revenue Formula**

Estimated 55 hours of ALJ time once every four years for an appeal referred to OAH which goes to hearing - \$245/hr x 55 = \$13.475

Estimated three hours of ALJ time for appeals referred to OAH and resolved without hearing per year Estimated 3 hours of ALJ time at \$245/hr = \$735

- Estimated one appeal referred to OAH for hearing \$13,475 averaged over four years = \$3,369
- Estimated three appeals referred to OAH and resolved without hearing per year \$735 x 3 = \$2,205
- Estimated three appeals referred to OAH for hearing and resolved without hearing averaged over four years \$2,205

averaged over four years = \$551

Averaged yearly estimate - \$3,369 + \$551 = \$3,920

Estimated 50 hours of ALJ time for rulemaking activities in FY24 related to implementing the requirements of 179.87 to 179.8757, Safe Workplaces for Meat and Poultry Processing, and Sec. 8, Subd. 7, Rulemaking required = 50 hours x = 12,250 charged to DLI in FY2024 pursuant to the requirements of Minn. Stat. § 14.53 (2022).

### **Long-Term Fiscal Considerations**

Costs associated with the rulemaking activities are a one-time occurrence. The estimated costs would continue in future years.

## **Local Fiscal Impact**

## References/Sources

**Agency Contact: Denise Collins** 

**Agency Fiscal Note Coordinator Signature:** Denise Collins **Date:** 1/12/2023 3:57:05 PM

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