

HF70 - 0 - Fair Labor Standards Modifications

Chief Author: **Rick Hansen**
 Committee: **Labor and Industry Finance & Policy**
 Date Completed: **1/19/2023 9:22:43 AM**
 Agency: **Labor and Industry Dept**

| State Fiscal Impact | Yes | No |
|----------------------------|-----|----|
| Expenditures | X | |
| Fee/Departmental Earnings | X | |
| Tax Revenue | | X |
| Information Technology | | X |
| Local Fiscal Impact | | |
| | | X |

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 | - | 168 | 126 | 126 | 126 | 126 |
| Total | - | 168 | 126 | 126 | 126 | 126 |
| Biennial Total | | | 294 | | | 252 |

| Full Time Equivalent Positions (FTE) | 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:** 1/19/2023 9:22:42 AM
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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.

*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 | |
| General Fund | - | 168 | 126 | 126 | 126 | 126 |
| Total | - | 168 | 126 | 126 | 126 | 126 |
| | | | 294 | | | 252 |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | | |
| General Fund | - | 184 | 142 | 142 | 142 | 142 |
| Total | - | 184 | 142 | 142 | 142 | 142 |
| | | | 326 | | | 284 |
| 2 - Revenues, Transfers In* | | | | | | |
| General Fund | - | 16 | 16 | 16 | 16 | 16 |
| Total | - | 16 | 16 | 16 | 16 | 16 |
| | | | 32 | | | 32 |

Bill Description

Section 1 Amendment to Minn. Stat. § 177.27, sub. 4, provides the Department of Labor & Industry (DLI) with authority to issue a compliance order for violations of Minn. Stat. §§ 181.86 181.88 (Migrant Labor Law).

Section 2 Amendment to Minn. Stat. § 179.86, sub. 1, expands workers protected by Minn. Stat. § 179.86 (Packinghouse Workers Bill of Rights) to include employees in the poultry processing industry.

Section 3 Amendments to Minn. Stat. § 179.86, sub. 3, requires that the explanation currently required under the Packinghouse Workers Bill of Rights be provided to employees at the start of employment, requires that the explanation be provided to employees both in person and in writing, expands the required information in the explanation to include the employer’s workers’ compensation insurance carrier name, phone number, and the insurance policy number, expands the required information in the explanation about employee rights to include information about the right to workers’ compensation insurance coverage, clarifies that the explanation requirement in the Packinghouse Workers Bill of Rights is in addition to the employee notice requirement under Minn. Stat. § 181.032.

Section 4 Addition of Minn. Stat. § 179.86, sub. 5, creates the option of a civil action for violations of the Packinghouse Workers Bill of Rights.

Section 5 Addition of Minn. Stat. § 179.86, sub. 6, creates a fine DLI shall pursue for violations of the Packinghouse Workers Bill of Rights. The fine shall be not less than \$400 or more than \$1,000 for each violation.

Section 6 Amendment to Minn. Stat. § 181.14, sub. 1, reduces the number of days from five to three by which a migrant worker’s wages become due and payable after they quit or resign.

Section 7 Amendment to Minn. Stat. § 181.635, sub. 1, expands the definition of “recruits” to include inducing an individual to relocate within Minnesota to work in food processing, by either an offer of employment or of the possibility of employment.

Section 8 Amendments to Minn. Stat. § 181.635, sub. 2, requires that the written disclosure currently required under Minn. Stat. § 181.635 (Recruitment in Food Processing Employment Law) be provided in another language if the person’s preferred language is not Spanish, increases the time during which the written disclosure must be maintained by the employer from two to three years, clarifies that the written disclosure requirement is in addition to the employee notice requirement under Minn. Stat. § 181.032.

Section 9 Amendment to Minn. Stat. § 181.635, sub. 3, increases the amount of damages available for a civil action under the Recruitment in Food Processing Employment Law.

Section 10 Amendment to Minn. Stat. § 181.635, sub. 4, increases the fine amount DLI shall pursue for violations of the Recruitment in Food Processing Employment Law. The fine shall be not less than \$400 or more than \$1,000 for each violation.

Section 11 Amendment to Minn. Stat. § 181.635, sub. 6, provides that the standard written disclosure form provided by DLI will be available in languages other than English and Spanish upon request.

Section 12 Amendment to Minn. Stat. § 181.85, sub. 2, expands the definition of “agricultural labor” to include labor performed in agriculture as defined in Minnesota Rules, part 5200.0260.

Section 13 Amendment to Minn. Stat. § 181.85, sub. 4, expands the definition of “employer” to include an individual, partnership, association, corporation, business trust, or any person or group of persons who employs migrant workers and eliminates the requirement that an “employer” must employ more than 30 migrant workers per day for more than seven days in any calendar year to be considered an “employer” under the Migrant Labor Law.

Section 14 Amendments to Minn. Stat. § 181.86, sub. 1, requires that the written employment statement currently required under the Migrant Labor Law be provided in another language if the worker’s preferred language is not Spanish, expands the required information in the written employment statement to include the employer’s workers’ compensation insurance carrier name, phone number, and the insurance policy number, clarifies that the written employment statement requirement in the Migrant Labor Law is in addition to the employee notice requirement under Minn. Stat. § 181.032.

Section 15 Amendment to Minn. Stat. § 181.87, sub. 2, clarifies that final payment to a migrant worker may be required sooner than within three days of termination if a worker is discharged pursuant to Minn. Stat. § 181.13.

Section 16 Amendments to Minn. Stat. § 181.87, sub. 3, clarifies that the biweekly 70 hour pay guarantee under the Migrant Labor Law would be computed by using the highest of the federal minimum wage, state minimum wage, or any hourly wage rate indicated in the written employment statement, increases the amount to be paid to migrant workers from \$5 to \$16 per day when work is not available because of climatic conditions or an act of God.

Section 17 Amendment to Minn. Stat. § 181.87, sub. 7, clarifies that employers covered under the Migrant Labor Law must also comply with the requirements related to earnings statements found in Minn. Stat. § 181.032.

Section 18 Amendments to Minn. Stat. § 181.88, clarifies that employers covered under the Migrant Labor Law must comply with the recordkeeping requirements under Minn. Stat. § 177.30, requires that employers maintain the written employment statement required under the Migrant Labor Law.

Section 19 Amendments to Minn. Stat. § 181.89, sub. 2, increases the penalty amounts available to plaintiffs for violations of the Migrant Labor Law.

Section 20 Addition of Minn. Stat. § 181.89, sub. 3, expands enforcement authority for DLI to assess penalties for violations of the Migrant Labor Law and to provide those penalties to the migrant workers aggrieved.

Assumptions

Enforcement Packinghouse Workers Bill of Rights Law

DLI estimates there are approximately 17,400 meatpacking and poultry processing workers in the state, all of whom would be covered under the proposed amendments to the Packinghouse Workers Bill of Rights. DLI would receive complaints and conduct investigations of violations of this law for the first time under the proposed amendments that provide DLI with enforcement authority. DLI also assumes it would experience an increase in inquiries regarding the law due to expanded outreach and education efforts.

DLI estimates it would receive approximately 60 inquiries and 12 complaints regarding this amended law each year. DLI estimates each inquiry would take approximately one hour to resolve by answering questions over the phone or via email and documenting the inquiry in its case management system. DLI estimates that 50% of the 12 investigations would require an average of 10 hours of investigator time to resolve. For these complaints, the Department anticipates it would speak with relevant parties, seek records, review records, provide information, and educate employers and workers about their responsibilities and rights to resolve the issue or claim. DLI estimates that 50% of the 12 investigations would require an average of 20 hours of investigator time to resolve. For these complaints, the Department anticipates that it would speak with relevant parties, seek records, review numerous records, and pursue fines for violations as permitted under the

amended law.

Formula assumptions:

100% of inquiries at 1 hour ($60 \times 1 = 60$ hours)

50% of investigations at 10 hours ($6 \times 10 = 60$ hours)

50% of investigations at 20 hours ($6 \times 20 = 120$ hours)

Total hours = 240 hours

Enforcement Recruitment in Food Processing Employment Law

DLI estimates there are approximately 17,400 meatpacking and poultry processing workers in the state. As this law, pursuant to its amendments, would apply to those workers who are recruited to relocate to Minnesota or within Minnesota to perform food processing work, DLI estimates that approximately 20% of these workers, or 3,480, are recruited each year to relocate to Minnesota or within Minnesota to perform this work. DLI assumes it would experience an increase in inquiries and complaints under this amended law due to expanded outreach and education. DLI estimates it would receive approximately 15 inquiries and 3 complaints regarding this amended law each year.

DLI estimates each inquiry would take approximately one hour to resolve by answering questions over the phone or via email and documenting the inquiry in its case management system. DLI estimates that 1 of the 3 investigations would require an average of 10 hours of investigator time to resolve. For these complaints, the Department anticipates it would speak with relevant parties, seek records, review records, provide information, and educate employers and workers about their responsibilities and rights to resolve the issue or claim. DLI estimates that 2 of the 3 investigations would require an average of 20 hours of investigator time to resolve. For these complaints, the Department anticipates that it would speak with relevant parties, seek records, review numerous records, and pursue fines for violations.

Formula assumptions:

100% of inquiries at 1 hour ($15 \times 1 = 15$ hours)

1 investigation at 10 hours ($1 \times 10 = 10$ hours)

2 investigations at 20 hours ($2 \times 20 = 40$ hours)

Total hours = 65 hours

Enforcement Migrant Labor Law

DLI estimates there are approximately 6,500 migrant agricultural workers who are recruited to travel to Minnesota to perform seasonal agricultural work each year who would be covered under the amended Migrant Labor Law. DLI would receive complaints and conduct investigations of violations of this law for the first time under the proposed amendments that provide DLI with enforcement authority. DLI also assumes it would experience an increase in inquiries regarding the law due to expanded outreach and education efforts. DLI estimates it would receive approximately 25 inquiries and 6 complaints regarding this amended law each year.

DLI estimates each inquiry would take approximately one hour to resolve by answering questions over the phone or via email and documenting the inquiry in its case management system. DLI estimates that 2 of the 6 investigations would require an average of 10 hours of investigator time to resolve. For these complaints, the Department anticipates it would speak with relevant parties, seek records, review records, provide information, and educate employers and workers about their responsibilities and rights to resolve the issue or claim. DLI estimates that 2 of the 6 investigations would require an average of 20 hours of investigator time to resolve. For these complaints, the Department anticipates that it would speak with relevant parties, seek records, review numerous records, and pursue penalties for violations as permitted under the amended law. Finally, DLI estimates that 2 of the 6 investigations would require an average of 40 hours of investigation time to resolve, given the number of workers impacted and the scope of the investigations to assess penalties for violations under each of the requirements of the Migrant Labor Law, including requirements related to the written employment statement, timing of payment, and the biweekly 70-hour guarantee.

Formula assumptions:

100% of inquiries at 1 hour (25 x 1 = 25 hours)

2 investigations at 10 hours (2 x 10 = 20 hours)

2 investigations at 20 hours (2 x 20 = 40 hours)

2 investigations at 40 hours (2 x 40 = 80 hours)

Total hours = 165 hours

Outreach will be necessary to raise public awareness and to provide education statewide regarding the changes to the Packinghouse Workers Bill of Rights Law, the Recruitment in Food Processing Employment Law, and the Migrant Labor Law. In FY2024, DLI estimates \$50,000 one-time for outreach and education efforts to develop training and presentations for employees, employers, and community organizations, to create and maintain web content, translation services, and printing and mailing fees.

Because the Migrant Labor Law and Packinghouse Workers Bill of Rights Law are new areas of law for DLI to enforce, DLI also anticipates additional staff time for implementation, training, outreach, and education. Responsibilities include: the preparation, implementation, and maintenance for program process and procedure; continuous outreach to migrant workers, workers new to Minnesota, workers with language barriers, workers with geographic isolation, or other considerations necessitating targeted outreach and education to underrepresented and hard-to-reach populations; internal investigator training; and a training outreach plan in coordination with employers. This additional effort is estimated at 0.75 FTE annually.

This bill amends statute to assess fines not less than \$400 or more than \$1,000 for each violation under MS 179.86 and 181.635. Of the investigations identified under the Packinghouse Workers Bill of Rights and Recruitment in Food Processing, DLI estimates that 8 investigations will result in findings of violations and corresponding fines. DLI assumes many employers will be compliant with the legal requirements after the Department's outreach efforts and that increased penalties will result in increased compliance. For each of the 8 investigations that will result in fines being assessed, DLI estimates an average of 5 violations per investigation, this results in fines amounting to \$16,000 (\$400 per violation).

In addition, the penalties assessed for violations of the Migrant Labor Law are awarded to the employee, not the Department.

Expenditure and/or Revenue Formula

| Labor Investigator Sr (MAPE - 12L) | 2024 | 2025 | 2026 | 2027 |
|------------------------------------|----------------|----------------|----------------|----------------|
| FTE | 1.0 | 1.0 | 1.0 | 1.0 |
| Salary (Midpoint) | 72,858 | 77,293 | 77,293 | 77,293 |
| Fringe Benefits (35% of Salary) | 25,500 | 27,053 | 27,053 | 27,053 |
| Indirect (22.89% of Salary/Fringe) | 22,514 | 23,885 | 23,885 | 23,885 |
| Salary/Fringe/Indirect | 120,873 | 128,231 | 128,231 | 128,231 |
| Non-Personnel Services | 13,261 | 13,361 | 13,361 | 13,361 |
| Cumulative Cost | 134,134 | 141,592 | 141,592 | 141,592 |

| Expenditures | 2024 | 2025 | 2026 | 2027 |
|----------------------------------|----------------|----------------|----------------|----------------|
| Labor Investigator Sr (MAPE-12L) | 134,134 | 141,592 | 141,592 | 141,592 |
| Outreach and Education | 50,000 | 0 | 0 | 0 |
| Cumulative Expenditures | 184,134 | 141,592 | 141,592 | 141,592 |

| Revenue | 2024 | 2025 | 2026 | 2027 |
|------------------------------|------|------|------|------|
| Investigations with Findings | 8 | 8 | 8 | 8 |
| Violations per Investigation | 5 | 5 | 5 | 5 |

| | | | | |
|----------------------------------|--------|--------|--------|--------|
| Avg Penalty Amount per Violation | 400 | 400 | 400 | 400 |
| Cumulative Revenue | 16,000 | 16,000 | 16,000 | 16,000 |

Long-Term Fiscal Considerations

NA

Local Fiscal Impact

NA

References/Sources

NA

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