

HF23 - 1A - Safe Workplaces for Meat and Poultry Processing

Chief Author: **Dan Wolgamott**
 Committee: **Agriculture Finance And Policy**
 Date Completed: **3/1/2023 11:06:55 AM**
 Lead Agency: **Labor and Industry Dept**
 Other Agencies:
 Administrative Hearings Attorney General

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) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Attorney General					
General Fund	-	220	113	113	113
Labor and Industry Dept					
General Fund	-	225	169	169	169
State Total					
Administrative Hearings	-	-	-	-	-
General Fund	-	445	282	282	282
Total	-	445	282	282	282
Biennial Total			727		564

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Attorney General					
General Fund	-	1.13	.63	.63	.63
Labor and Industry Dept					
General Fund	-	1	1	1	1
Total	-	2.13	1.63	1.63	1.63

Lead 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: Christian Larson **Date:** 3/1/2023 11:06:55 AM
Phone: 651-284-6436 **Email:** christian.larson@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.

*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		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Attorney General						
General Fund		-	220	113	113	113
Labor and Industry Dept						
General Fund		-	225	169	169	169
	Total	-	445	282	282	282
	Biennial Total			727		564
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	4	4	4	4
Attorney General						
General Fund		-	245	138	138	138
Labor and Industry Dept						
General Fund		-	225	169	169	169
	Total	-	474	311	311	311
	Biennial Total			785		622
2 - Revenues, Transfers In*						
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	4	4	4	4
Attorney General						
General Fund		-	25	25	25	25
Labor and Industry Dept						
General Fund		-	-	-	-	-
	Total	-	29	29	29	29
	Biennial Total			58		58

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Chief Author: **Dan Wolgamott**
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 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	-	225	169	169	169	169
Total	-	225	169	169	169	169
Biennial Total			394			338

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: Christian Larson **Date:** 2/25/2023 2:16:43 PM
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State Cost (Savings) Calculation Details

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*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	-	225	169	169	169	169
Total		-	225	169	169	169
Biennial Total				394		338
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	225	169	169	169	169
Total		-	225	169	169	169
Biennial Total				394		338
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial 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] provides a meat-processing worker’s right to refuse to work under dangerous conditions and to continue to receive pay pursuant to section 182.654, subdivision 11.

Section 5 [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 commissioner of the Department of Labor and Industry 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. This subdivision also states the commissioner’s authority to issue a stop order or business closure pursuant to section 182.662, subdivision 1.

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 and restrain further violations; 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.

Subd. 6. Allows whistleblower 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 commissioner 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 6 [179.8755] prohibits discrimination against an employee who reports concerns about meatpacking operation health and safety practices to the employer or otherwise exercises rights under sections 182.65 to 182.674. This section bans any attempt to require a worker to sign a contract or agreement to limit the worker's right to disclose workplace health and safety hazards and practices and defines any such attempt as an adverse action. Further, reporting or threatening to report a meat-processing worker's or a worker's family member's suspected immigration status constitutes an adverse action. 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 meat-processing worker must pay a fine of up to \$10,000 to the Department in addition to other available penalties.

Section 7 [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 keeps record of worker-safety training completion.

Subdivision 7 of this section prescribes 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 requires employers provide written notice in the language fluent to the worker. Paid sick leave rights are 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 than those benefits outlined in this bill.

Section 8 [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, it 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 9 [182.654, subdivision 11] is amended to provide the commissioner with authority to order reinstatement of 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.

Section 10 appropriates \$360,000 in fiscal year 2024 and \$169,000 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.

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 with 50 or more employees is estimated to be 34 with approximately 13,000 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 130 inquiries annually, a figure which represents 1% of total impacted workers. 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. 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.

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.

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 Costs	154,987	163,965	163,965	163,965

Expenditures	2024	2025	2026	2027
State Prog Admin Coordinator	154,987	163,965	163,965	163,965
OAH Legal Fees	3,920	3,920	3,920	3,920
Outreach & Engagement Materials/Translations	50,000			
IT OnBase Adjustments	15,000			
IT Case Mgmt. License/Maintenance	1,000	1,000	1,000	1,000
Cumulative Expenditures	224,907	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

DLI Research & Statistics Unit

Source: Quarterly Census on Employment and Wage

Annual averages for 2021

Agency Contact: Sara Ellstra 651-478-8148

Agency Fiscal Note Coordinator Signature: Jacob Gaub

Phone: 652-284-5812

Date: 2/24/2023 2:35:57 PM

Email: jacob.gaub@state.mn.us

HF23 - 1A - Safe Workplaces for Meat and Poultry Processing

Chief Author: **Dan Wolgamott**
 Committee: **Agriculture Finance And Policy**
 Date Completed: **3/1/2023 11:06:55 AM**
 Agency: **Administrative Hearings**

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

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial 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 Burns **Date:** 2/24/2023 9:03:03 AM
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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	4	4	4	4
Total	-	4	4	4	4
Biennial Total			8		8
2 - Revenues, Transfers In*					
Administrative Hearings	-	4	4	4	4
Total	-	4	4	4	4
Biennial Total			8		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. 5, Enforcement and Compliance, provides DLI with compliance authority.

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. 5, 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.

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

Long-Term Fiscal Considerations

The estimated costs would continue in future years.

Local Fiscal Impact

References/Sources

Agency Contact: Denise Collins

Agency Fiscal Note Coordinator Signature: Denise Collins

Phone: 651-3617875

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HF23 - 1A - Safe Workplaces for Meat and Poultry Processing

Chief Author: **Dan Wolgamott**
 Committee: **Agriculture Finance And Policy**
 Date Completed: **3/1/2023 11:06:55 AM**
 Agency: **Attorney General**

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

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State Cost (Savings) Dollars in Thousands	Biennium			Biennium	
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General Fund	-	220	113	113	113
Total	-	220	113	113	113
Biennial Total			333		226

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	1.13	.63	.63	.63
Total	-	1.13	.63	.63	.63

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: Susan Nelson **Date:** 2/27/2023 3:19:11 PM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

State Cost (Savings) Calculation Details

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General Fund	-	220	113	113	113	113
Total		-	220	113	113	113
Biennial Total			333			226
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	245	138	138	138	138
Total		-	245	138	138	138
Biennial Total			383			276
2 - Revenues, Transfers In*						
General Fund	-	25	25	25	25	25
Total		-	25	25	25	25
Biennial Total			50			50

Bill Description

HF23 provides employment protections to workers in meatpacking facilities who are exposed to hazardous work conditions related to COVID-19 and repetitive musculoskeletal injuries and disorders. HF23 is enforceable by the Minnesota Department of Labor and Industry (“DLI”) through its administrative compliance order power laid out in section 177.27, subd. 4 and by the Attorney General through section 8.31. HF23 also requires DLI to create a worker’s rights coordinator and places additional recordkeeping and program requirements on meatpacking employers. The bill also provides a right of action to workers and allows them to obtain remedies of injunctive relief, reasonable attorney fees, and any other remedies available under the law.

Section 3 requires the Commissioner of DLI to appoint a meatpacking industry worker rights coordinator who must enforce Minn. Stat. sections 179.87 to 179.8757. Each year the coordinator must submit a report to the governor and chairs of legislative committees with jurisdiction over labor. The report must also be publicly posted on DLI’s website.

Section 4 allows a meat-processing worker the right to refuse to work under dangerous conditions, consistent with section 182.654. The section further requires that the employer continue to pay a worker until the condition has been remedied.

Section 5 allows DLI to inspect workplaces and subpoena records and witnesses, and to go to court to enforce the applicable sections. It also allows the commissioner to issue compliance orders under section 177.27. It separately gives the Attorney General the power to enforce sections 179.87 to 179.8757 through section 8.31. Subdivision 6 of section 179.875 provides whistleblower protections to employees who give written notice to DLI’s Commissioner and allows individuals to commence civil actions if DLI does not take action within 30 days.

Section 6 prohibits retaliation against a worker or other person who raises a concern about meatpacking operation health and safety practices or hazards and forbids employers from discharging or discriminating against a worker because the worker raised concern about the employer’s health and safety practices. It also forbids employers from requiring workers to sign contracts limiting or preventing workers from disclosing information about workplace health and safety practices or hazards.

Section 7 requires meat-processing employers to adopt safe worker programs that minimize and prevent musculoskeletal disorders. The program must be developed by a committee of individuals and include a professional ergonomist, licensed board-certified physician, and at least three workers. Section 179.8756 also sets out program elements and requirements for a plan to eliminate, prevent, and control ergonomic hazards. The section further requires employers to provide new task and annual safety training of at least 8-hours per year and places record-keeping requirements on employers. The section further requires the DLI Commissioner to adopt rules related to accurate records of meat-processing worker exposure to ergonomic hazards. This section also provides detailed protections that are specific to pandemics.

Section 8 requires employers to provide written information to workers in their language of fluency at least annually. It also

requires the DLI coordinator to notify covered employers of the provisions and any updates annually and place such information on the DLI website in English, Spanish, and other applicable languages.

Assumptions

The AGO anticipates that to gain compliance with employers, DLI will need to commence approximately one proceeding at the Office of Administrative Hearings (OAH) each year, and that one case every four years would result in a full hearing at OAH. DLI assumes that the other three cases every four years would result in a settlement before an evidentiary hearing was completed. DLI notes that the AGO would represent DLI in each of these OAH actions, which would be brought under Minn. Stat. § 177.27, subd. 4. Based on past experience, the AGO estimates that in the three years where a settlement is reached before hearing, each case will take an average of approximately 150 hours of attorney time, and the fourth case that goes to hearing will take approximately 300 hours, thus total annual estimated costs each year would average to 187.5 hours.

The AGO estimates that it will expend 500 hours of investigator time monitoring compliance with the bill’s newly enacted prohibitions in the first fiscal year and 250 hours for each subsequent fiscal year monitoring compliance with the bill and identifying potential violations of the bill. The AGO estimates that it will also expend 1,000 attorney hours initiating investigations and enforcement action(s) pursuant to sections 179.875, subd. 4 and 8.31 as it identifies and litigates suspected violations in the first fiscal year and 500 hours in each subsequent fiscal year. This is based on the AGO’s experience investigating and litigating employment and safety concerns that occurred during the COVID-19 public health emergency.

The AGO can recover attorney’s fees and costs of investigation if successful in proving violations of the bill, as well as civil penalties of up to \$25,000 per violation. See Minn. Stat. section 8.31, subs. 3, 3a. Recoveries for the State including civil penalties are deposited into the general fund pursuant to section 16A.151. Recognizing the uncertainties inherent in any litigation, and the uncertainties of predicting the fiscal year of recovery of such funds (which necessarily is at the end of litigation), the AGO assumes that recovery of fees and civil penalties will begin in FY24, and therefore does not project revenue in FY23. Starting in FY24, the AGO assumes it will bring and successfully litigate or settle at least one case each fiscal year that will provide revenue to the State, in addition to addressing the violation. The AGO estimates in each case it will, at a minimum, recover its costs and fees and civil penalties in the amount of \$25,000. Thus, revenue of \$25,000 per year is projected started in FY24.

1 FTE Legal Assistant (including investigators, paralegals, mediators, financial analysts and support staff) averages 1,500 billable hours in one year at a rate of \$103.00/hour.

1 FTE Attorney averages 1,500 billable hours in one year at a rate of \$163.00/hour.

Expenditure and/or Revenue Formula

AGO Expenditures (FY24)

	Hourly Billing Rate	Hours	Total Cost to AGO
Attorney [AGO enforcement]	\$163	1000	\$163,000
Attorney [DLI enforcement]	\$163	187.5	30,562.50
Legal assistant, [Investigator/other non-attorney staff]	\$103	500	\$51,500
<i>Other</i>			
Total	N/A	1,687.5	\$245,062.50

AGO Expenditures (FY25, FY26, FY27)

	Hourly Billing Rate	Hours	Total Cost to AGO
Attorney [AGO enforcement]	\$163	500	\$81,500
Attorney [DLI enforcement]	\$163	187.5	30,562.50
Legal assistant, [Investigator/other non-attorney staff]	\$103	250	\$25,750
<i>Other</i>			
Total	N/A	937.5	\$137,812.50

Revenue:

	Total Amount Received	To General Fund
e.g. litigation recovery	(\$25,000)	(\$25,000)
Total	(25,000)	

Long-Term Fiscal Considerations

n/a

Local Fiscal Impact

n/a

References/Sources

n/a

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