



COLORADO
WATER CONGRESS
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SB21-176

SHORT TITLE: Protecting Opportunities and Workers' Rights Act

LONG TITLE: Concerning the protection of Colorado workers from discriminatory employment practices.

SPONSORS: Senators Winter and Petterson/Reps. Lontine and Gray

COMMITTEES: Senate Judiciary Committee

PURPOSE OF THE BILL: To expand protections from employment practices viewed as discriminatory.

PROPOSERS OF THE BILL: Labor and employment advocates

POTENTIAL STAKEHOLDERS: Employers, businesses, disability rights organizations, chambers of commerce

BACKGROUND: The Civil Rights Act already protects employees through a well and long-established system of state and federal law. This law is well documented with strong Colorado Civil Rights Division (CCRD) practices. The goal of the CCRD process is to resolve claims when possible and help reduce the long, drawn-out litigation process and costs associated with that process. Current law allows any employee to seek redress in the courts if the CCRD does or does not make a probable cause finding of discrimination.

Is this bill necessary this year? There is no deadline.

How does the bill change current law? The bill expands the definition of employee in relation to harassment claims by adding contractors, domestic service workers, unpaid interns, and volunteers as being under the control of the employer. It adds "marital status" and "caregiver status" as protected classes under the Colorado Anti-Discrimination Act. Unlike federal law (Title VII) a claimant would not need to show severe or pervasive conduct, but a single action could result in a hostile environment, which is defined as anything that "undermines a person's sense of well-being." Settlement agreements could not be kept confidential, making settlement of a claim less likely. It prohibits an employer from requiring a medical exam prior to offering a position unless all employees are required to have an exam. It limits the amount of time an employer must investigate a claim to 14 days and respond to the claim. The only way for an employer to avoid liability is by showing that no employee has submitted a complaint within the past six years. And an employer is required to create a program showing documented success, although that term is not defined.

Does the bill affect the prior appropriations system? No.

How is the bill implemented? Through the judicial system.

Practical considerations: The terms are vague and subjective, with no clear parameters to guide an employer's conduct.

Fiscal Impact: According to the fiscal note, the bill requires an appropriation of \$5.2 million to multiple state agencies for FY 2021-22 and assumes that state employees, contractors, subcontractors, and their employees are covered. It does not estimate compliance costs to the private sector.

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