



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	HB0362	<b>Title:</b>	Revise occupational health and safety standards
<b>Primary Sponsor:</b>	Dunwell, Mary Ann	<b>Status:</b>	As Introduced

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|--|--|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget        | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$138,304	\$115,518	\$115,634	\$115,751
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**Description of fiscal impact:** This legislation broadens the responsibilities of a public sector employer in regard to their duty to notify employees of exposure to safety and health hazards that may increase the risk of occupational diseases. The costs for notification, testing, and potential relocation costs if a workplace is determined to be unsafe or unhealthy cannot be determined. The Department of Labor & Industry, Employment Relations Division, Safety & Health Bureau, is responsible for responding to complaints and calls for assistance in investigating potential safety and health hazards.

### FISCAL ANALYSIS

#### Assumptions:

##### State Agencies

- Public employers are currently required to assure safe and healthful workplaces by the Montana Occupational Safety and Health Act.
- It is assumed that all state agencies comply with the Montana act. [See Technical Note 6]
- Section 3 of HB 362 broadens the scope of the Montana Occupational Safety and Health Act.
- Section 3 states that a public employer may not require a permit an employee to go to or be in a workplace that is determined to be unsafe or unhealthy. It is unknown if any existing workplaces would be determined to be unsafe or unhealthy. If a workplace were determined to be unsafe or unhealthy, there would be costs

associated with identifying and securing an alternative workplace and relocated the affected workforce. That cost would be unique to any affected workplace and cannot be determined.

5. Section 3 further states that any new workplace must be tested to assure a safe and healthful workplace. The estimated cost of environmental testing is \$0.35 per square foot. The number of square feet that may be acquired each fiscal year via construction of new space, renting/leasing different space, or occupying existing space that may not have been previously occupied is unknown. Therefore, the total cost of environmental testing for this purpose in a fiscal year is unknown. [See Technical Note 7]
6. Section 5 of HB 362 requires a public employer to allow employees to observe any testing of workplaces. In addition, the public employer must allow employees access to the test results. There is assumed to be no fiscal impact from these requirements.
7. Section 5 further states that public employers must notify employees who have been exposed to safety or health risks. The fiscal impact of the notification is not anticipated to be significant.

**Department of Labor and Industry**

8. Section 5 of this bill requires public employers to notify their employees who have been or are being exposed to recognized safety and health hazards. Due to this notification, it is anticipated by the Department of Labor & Industry that the number of complaints received for investigation and inspection will increase.
9. The Department of Labor & Industry will need to employ an additional 1.00 FTE in order to conduct investigations and inspections on the additional complaints.
10. In FY 2016, the department would need to hire a 1.00 FTE Occupational Health Safety Specialist. The estimated costs for the FTE include: \$55,792 for salary and benefits; \$72,512 for testing charges as well as a new employee package, computer, rent, motor pool lease, travel, and communications costs; and \$10,000 for Industrial Hygienist equipment. The total estimated costs would be \$138,304. For FY 2017, the estimated cost would be \$115,518. For FY 2018, the estimated cost would be \$115,634. For FY 2018, the estimate cost would be \$115,751.
11. Section 6 of the legislation would require an additional function of the Department of Labor & Industry and a tracking system would have to be implemented to comply. The cost of this tracking system is unknown at

**Legislative Branch**

12. Section 6 of this bill requires the Department of Labor and Industry to biennially report to the economic affairs interim committee on activities conducted pursuant to the provisions of HB 362.
13. For the purposes of this fiscal note, it is assumed that the Department of Labor and Industry will report to the economic affairs interim committee during one of the committee's regularly scheduled meetings. No additional resources are required, resulting in no fiscal impact to the legislative branch.

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE (DLI)	1.00	0.00	0.00	0.00
<b><u>Expenditures:</u></b>				
Personal Services (DLI)	\$55,792	\$55,792	\$55,792	\$55,792
Operating Expenses (DLI)	\$72,512	\$59,726	\$59,842	\$59,959
Equipment (DLI)	\$10,000	\$0	\$0	\$0
<b>TOTAL Expenditures</b>	<u><u>\$138,304</u></u>	<u><u>\$115,518</u></u>	<u><u>\$115,634</u></u>	<u><u>\$115,751</u></u>
<b><u>Funding of Expenditures:</u></b>				
State Special Revenue (02)	<u>\$138,304</u>	<u>\$115,518</u>	<u>\$115,634</u>	<u>\$115,751</u>
<b>TOTAL Funding of Exp.</b>	<u><u>\$138,304</u></u>	<u><u>\$115,518</u></u>	<u><u>\$115,634</u></u>	<u><u>\$115,751</u></u>
<b><u>Revenues:</u></b>				
State Special Revenue (02)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>TOTAL Revenues</b>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
State Special Revenue (02)	(\$138,304)	(\$115,518)	(\$115,634)	(\$115,751)

**Effect on County or Other Local Revenues or Expenditures:**

1. The impact to local governments would be similar to that of state agencies. However, the fiscal the impact to local governments is unknown at this time.

**Technical Notes:**

1. The expenditures for the Department of Labor and Industry would be appropriately funded from the state special revenue Workers’ Compensation Fund. The Workers’ Compensation Fund is currently experiencing a shortfall in revenue due to declining workers’ compensation benefits. LC0533 has been requested on behalf of the department to increase the amount that can be assessed in order to pay for current expenditures. Without passage of LC0533, the expenditures required by this bill would need to be funded from the general fund.

**Department of Environmental Quality**

2. Section 3(2) (b) provides that a public employer may not allow an employee to be in a workplace that does not meet health and safety standards unless “the public sector employee is at the place of employment or workplace to prevent or abate a recognized safety and health hazard.” This language may prevent a DEQ employee from entering a site to perform an environmental inspection.
3. Section 5(1)(e) provides that “[t]he public sector employer shall allow employees or their representatives to observe monitoring or measuring of employee exposure to recognized safety and health hazards.” This language appears to conflict with the language contained in section 3(2) and (3) that prohibits their presence in those places.
4. Section 5(1)(f) provides that “[t]he public sector employer shall allow access by an employee or the employee’s representative to accurate records of employee exposures to recognized safety and health hazards when granted access to records of employee exposures.” The meaning of this language is unclear. If it is intended to allow employees and/or their representative to access employee exposure data that

constitutes medical information, this provision may be preempted by the Health Insurance Portability and Accountability Act (HIPAA).

**Department of Administration**

5. Section 3, new (4): “construct” and “constructed” are not defined. Defining “construct” and “constructed” per 18-2-101(2)(a) MCA creates an exclusion under 18-2-101(2)(b) MCA for construction work done as part of energy performance contracting under 90-4, part 11 MCA.
6. Section 3, new (4): “reasonable environmental testing of buildings” is not defined. Environmental testing can be extensive and expensive. Lack of a legal definition or reference standard for the extent of testing meant by the bill creates an indeterminable expense.
7. HB 362 does not address state leased buildings and who would be responsible for testing of said buildings.

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*Sponsor’s Initials*

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*Date*

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*Budget Director’s Initials*

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*Date*