

SF1258 - 0 - Sexual Harassment or Abuse Payments

Chief Author: **Judy Seeberger**
 Committee: **Labor**
 Date Completed: **2/13/2023 1:50:30 PM**
 Lead Agency: **Labor and Industry Dept**
 Other Agencies:
 Revenue 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
Revenue Dept						
General Fund		17	42	25	25	25
State Total						
General Fund		17	42	25	25	25
Total		17	42	25	25	25
Biennial Total				67		50

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	Revenue Dept	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		.03	.28	.17	.17	.17
Total		.03	.28	.17	.17	.17

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: Karl Palm **Date:** 2/13/2023 1:50:30 PM
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.

*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
Revenue Dept						
General Fund		17	42	25	25	25
Total		17	42	25	25	25
Biennial Total				67		50
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Revenue Dept						
General Fund		17	42	25	25	25
Total		17	42	25	25	25
Biennial Total				67		50
2 - Revenues, Transfers In*						
Revenue Dept						
General Fund		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

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 Date Completed: **2/13/2023 1:50:30 PM**
 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

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Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
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: Karl Palm **Date:** 2/13/2023 1:50:02 PM
Phone: 651-296-6055 **Email:** karl.palm@lbo.mn.gov

State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

Section 1 of this bill prohibits settlements between employers and employees related to sexual harassment or abuse being provided as wages or severance pay to the employee when the settlement includes a nondisclosure agreement.

Section 2 defines “qualifying damages” as a subtraction for tax purposes. It also defines these damages as those received under a sexual harassment or abuse claim that are not excluded from gross income under the Internal Revenue Code because injury or innless was not physical; or severance pay under a settlement of a sexual harassment or abuse claim that does not include a nondisclosure agreement.

This bill would be effective for taxable years beginning after 12/31/21.

Assumptions

The Minnesota Department of Labor & Industry would not have enforcement authority over this law, therefore there is no fiscal impact on the agency.

Expenditure and/or Revenue Formula

NA

Long-Term Fiscal Considerations

NA

Local Fiscal Impact

NA

References/Sources

NA

Agency Contact: Jessica Grosz 651-284-5307

Agency Fiscal Note Coordinator Signature: Jacob Gaub

Date: 2/13/2023 4:50:12 AM

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Chief Author: **Judy Seeberger**
 Committee: **Labor**
 Date Completed: **2/13/2023 1:50:30 PM**
 Agency: **Revenue Dept**

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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General Fund		.03	.28	.17	.17	.17
Total		.03	.28	.17	.17	.17

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: Joel Enders **Date:** 2/13/2023 9:35:27 AM
Phone: 651-284-6542 **Email:** joel.enders@lbo.mn.gov

State Cost (Savings) Calculation Details

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General Fund	17	42	25	25	25	25
Total		17	42	25	25	25
Biennial Total					67	50
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	17	42	25	25	25	25
Total		17	42	25	25	25
Biennial Total					67	50
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total					-	-

Bill Description

Section 1 of the bill prohibits an employer from using a settlement for sexual harassment or abuse as “wages or severance pay” to an employee when the settlement includes a non-disclosure agreement. This section is effective the day following enactment.

Section 2 of the bill provides for a subtraction for “qualifying damages,” defined as:

1. damages received under a sexual harassment or abuse claim that are not excluded from gross income under Internal Revenue Code section 104(a)(2) because the injury or sickness for which the damages paid are not physical; or
2. severance pay received under a financial settlement of a sexual harassment or abuse claim that does not include a nondisclosure agreement.

Internal Revenue Code section 104(a)(2) excludes from gross income “the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness.” This section is effective for taxable years beginning after December 31, 2021.

Assumptions

The only data available to help determine how many individuals may be claiming the subtraction in section 2 of the bill is from the M1NC nonconformity schedule from 2018 in which employers reported deductions for settlements subjected to nondisclosure agreements on line 16. In 2018, 6,900 returns reported an amount on line 16. Since line 16 is used for a total of five different adjustments, we assume one-fifth or 1,380 of the adjustments would be for settlements subjected to nondisclosure agreements. 2018 is the last year when information pertaining to these types of income were reported on Form M1 as Minnesota conformed to federal law after that and more recent data is not as complete.

The Income Tax and Withholding (ITW) Division at DOR will provide content to update Form M1M, Additions and Subtractions, and instructions to include a subtraction for qualifying damages. ITW will also provide content to update the MNDOR website, training and outreach materials, and send out a GovDelivery announcement. ITW assumes 0.11 FTE is needed in FY24 is needed for this work.

The Communications Division at DOR will review and design the updates to Form M1M, Additions and Subtractions, and instructions to include a subtraction for qualifying damages. Communications will also review and design the updates to the MNDOR website, training and outreach materials, and send out GovDelivery announcements to four mailing lists. Communications assumes 0.01 FTE in FY24 is needed for this work.

System changes will be needed to existing functionality, including updates to data capture systems and return processing, but will not require additional ongoing support. MN.IT assumes systems development costs of \$12,000 in FY23. 0.3 FTE is also needed in FY23 for systems testing and analysis.

The Tax Operations Division at DOR will update training materials for the new subtraction in section 2 and will perform reviews on returns that claim this new subtraction, using the assumption of 1,380 filers. Tax Operations 0.17 FTE is needed in FY24 and ongoing for early audit review of returns claiming the subtraction. Tax Operations also assumes mailing costs of \$340 in FY24 and ongoing to communicate with claim filers.

FTE Impact

FTE's	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Communications staff (MAPE)		0.01			
Income Tax and Withholding staff (MAPE)		0.11			
Tax Operations/Processing staff (MAPE)		0.17	0.17	0.17	0.17
Systems Analysis & Testing staff (MAPE)	0.03				
Total FTE Impact	0.03	0.28	0.17	0.17	0.17

Note: Totals may vary slightly due to rounding.

Expenditure and/or Revenue Formula

This bill may have an impact on state tax revenues. An estimate of revenue impact is not included in this fiscal note. The Department of Revenue prioritizes revenue estimate requests for bills before Tax Committee and will provide one for this bill when it is before Tax Committee.

Administrative Impact

Administrative Costs (Savings)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Employees		41,894	24,623	24,623	24,623
Mailing		340	340	340	340
Systems Analysis & Testing	4,996				
Systems Development	12,000				
Total Administrative Costs (Savings)	16,996	42,234	24,963	24,963	24,963

Note: This chart uses whole numbers. Totals may vary slightly due to rounding.

Long-Term Fiscal Considerations

The Tax Operations Division at DOR will continue to review returns claiming this subtraction beyond FY27.

Local Fiscal Impact

N/A

References/Sources

Agency staff provided information for this fiscal note.

If information technology costs are included, my agency's Chief Business Technology Officer has reviewed the estimate.

I have reviewed the content of this fiscal note and believe it is a reasonable estimate of the expenditures and revenues

associated with this proposed legislation.

Agency Contact:

Agency Fiscal Note Coordinator Signature: Chelsea Magadance

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