



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1239: CO ANTI-DISCRIMINATION ACT

Prime Sponsors:

Rep. Zokaie
Sen. Daugherty; Weissman

Fiscal Analyst:

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Fiscal note status: This revised fiscal note reflects the introduced bill, as amended by the House Judiciary Committee and House Appropriations Committee.

Summary Information

Overview. The bill expands remedies for individuals who experience discriminatory practices related to public accommodations.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Revenue
- State Expenditure

Appropriations. For FY 2025-26, the bill requires and includes a reappropriation of \$100,305 from the Department of Personnel and Administration to the Department of Law.

Table 1
State Fiscal Impacts

Type of Impact ¹	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0	\$0
State Expenditures	\$100,305	\$222,431	\$222,431
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0
Change in State FTE	0.4 FTE	0.4 FTE	0.4 FTE

¹ Fund sources for these impacts are shown in the tables below.

Table 1A
State Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27¹	Out Year FY 2027-28
General Fund	\$0	\$0	\$0
Cash Funds	\$100,305	\$222,431	\$222,431
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$0	\$0	\$0
Total Expenditures	\$100,305	\$222,431	\$222,431
Total FTE	0.4 FTE	0.4 FTE	0.4 FTE

¹ Out-year costs will be paid using a mix of General Fund, cash funds, and federal funds reappropriated to the DPA from affected state agencies.

Summary of Legislation

The bill modifies the Colorado Anti-Discrimination Act by consolidating and expanding remedies for individuals facing discrimination, particularly those with disabilities. Specifically, it:

- permits all protected classes to seek attorney's fees and costs, actual monetary damages, noneconomic damages of up to \$50,000, and fines of \$5,000 per violation;
- reduces noneconomic damages by 50 percent if a defendant corrects the violation within 120 days; and
- conforms adjudication standards with the federal American Disabilities Act.

Background

The State of Colorado owns more than 9,000 properties, at least 1,400 of which were built prior to the Americans with Disabilities Act (ADA) of 1991. The Office of the State Architect (OSA) in the Department of Personnel and Administration (DPA) considers ADA upgrades through annual controlled maintenance funding at one percent of each state budget, which is at the discretion of the General Assembly to fund. In order to fund capital construction within a shorter timeframe, the OSA can request for emergency controlled maintenance.

The Division of Risk Management in the DPA oversees the state's response to liability claims and lawsuits stemming from allegations of negligence by state government or state employees related to such occurrences as public accommodations.

The Colorado Civil Rights Division (CCRD) in the Department of Regulatory Agencies (DORA) enforces the state's anti-discrimination laws in the areas of employment, housing, and public accommodations. In public accommodations matters, individuals who believe they have been discriminated against have 60 days from the act of alleged discrimination to file a complaint with the division.

Assumptions

The bill expands the allowable compensatory damages for prevailing plaintiffs in public accommodations discrimination cases, which is expected to increase the number of parties that choose to file suit against the state rather than seek administrative relief or file in federal court. In the past eight years, 22 public accommodations lawsuits were brought against the state. The fiscal note assumes that the state will defend three additional lawsuits annually under the bill.

State Revenue

Starting in FY 2025-26, the bill may increase state revenue from civil penalties and court filing fees by a minimal amount.

Civil Penalties

Under the bill, a person committing a discriminatory practice is subject to a civil penalty of up to \$5,000 per violation. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

Filing Fees

The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

State Expenditures

Starting in FY 2025-26, the bill increases expenditures in the DPA and minimally increases workload in DORA and the Judicial Department, as described below.

State Expenditures Department of Personnel and Administration

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Settlements	\$0	\$5,000	\$5,000
Noneconomic Damages	\$0	\$50,000	\$50,000
Attorney's Fee Awards	\$0	\$67,126	\$67,126
Legal Services	\$100,305	\$100,305	\$100,305
Total Costs	\$100,305	\$222,431	\$222,431
Total FTE – Legal Services	0.4 FTE	0.4 FTE	0.4 FTE

Department of Personnel and Administration

Expenditures in the DPA will increase by about \$100,000 in FY 2025-26 and \$222,000 in future years from litigation and risk management costs. The state's actual costs will depend on a number of factors, including the number and complexity of cases, outcomes, and the timing of cases and judgements. Capital construction costs may also increase.

State Litigation and Risk Impacts

The bill is expected to increase litigation and risk management costs to the state from additional discrimination lawsuits. If such cases occur, state agencies and institutions of higher education will have increased costs for legal services, provided by the Department of Law. Depending on the outcome of any cases, settlement or liability payments may be required from the Risk Management Fund. The Risk Management Fund maintains a fund reserve that is comprised of payments made by state agencies for legal services and risk management through common policy billings based on costs incurred in prior years.

In some cases, litigation and risk management costs resulting from legislation can be paid using reserve funds, which are continuously appropriated to the DPA. When costs are estimated to be significant, however, the DPA requires an initial General Fund appropriation to ensure solvency of the Risk Management Fund until common policy billing to state agencies can be adjusted.

The bill is expected to increase litigation and risk management costs in the DPA by about \$100,000 in FY 2025-26 and \$222,000 in future years from three additional public accommodations discrimination lawsuits annually. Based on these estimated costs and the factors identified above, it is assumed that costs under the bill can be paid from the Risk Management Fund and no immediate change in appropriation is required.

Capital Construction

Expenditures in the Office of the State Architect may increase if the state corrects violations regarding building accessibility through a request for emergency controlled maintenance. The exact amount of any future capital construction costs depends on the number of lawsuits, scale of the correction, construction and labor costs, and various other factors; therefore, changes to state expenditures cannot be estimated. It is assumed that any required work will be addressed through the annual budget process.

Department Regulatory Agencies

Starting in FY 2025-26, workload in DORA will minimally increase to investigate and resolve additional discrimination complaints filed with the CCRD. This workload is expected to be minimal and no appropriation is required.

Judicial Department

Trial courts in the Judicial Department will experience a minimal workload increase to respond to civil case filings. No change in appropriations is required.

Local Government

Similar to the state, local governments will likely experience an increase in legal and liability related costs. Impacts will vary by jurisdiction and have not been estimated.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2025-26, the bill requires and includes a reappropriation of \$100,305 from the Risk Management Fund in the Department of Personnel and Administration to the Legal Services Cash Fund in the Department of Law, and 0.4 FTE.

The Risk Management Fund is continuously appropriated to the DPA, so no further appropriation is required.

State and Local Government Contacts

Judicial
Law

Personnel
Regulatory Agencies