



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-0648 Date: February 9, 2018
Prime Sponsors: Rep. Melton; Salazar Bill Status: House Local Government
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Bill Topic: RIGHT TO REST ACT

- Summary of Fiscal Impact: State Revenue (potential), State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill prohibits the state of Colorado and its subdivisions from enacting and enforcing laws, ordinances, rules, and regulations that limit, prohibit, or penalize the ability of persons to use public space.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

This bill prohibits a state or local government in Colorado (government entity) from enacting or enforcing laws, ordinances, rules, or regulations that limit, prohibit, or penalize certain actions, including the right of persons to:

- use and move freely in public spaces;
rest or sleep in public spaces and protect oneself from the elements in a manner that does not obstruct the use of or access to private property;
eat, share, accept, or give food in any public space where food is not prohibited;
occupy a legally parked motor vehicle; and
expect a reasonable amount of privacy over personal property.

If a government entity can demonstrate that it offered housing to a person experiencing homelessness and that person refused to accept this offer, it is exempt from the bill's enforcement prohibition.

Under the bill, public space includes property owned or leased by a state or local government or any property with an easement for public use.

Assumptions

The fiscal note assumes that the bill does not confer tenancy rights, free access to public spaces for which admission fees are charged, or confer blanket immunity from criminal prosecution for acts committed in public space. It is further assumed that a state agency, local government, special district, school district, or statutory public entity retains the right to set policy for the use of its space through the adoption of laws, ordinances, rules, and regulations, but that any such policies will apply uniformly to all members of the public. For example, the state currently prohibits camping, sleeping, and public intoxication, among other things, on state property, but these laws apply to all persons, irrespective of housing status.

State Revenue

Beginning in the current FY 2017-18, state cash fund revenue may increase if individuals or organizations challenge the enforcement of existing laws that limit, prohibit, and penalize certain actions. The filing for each case is \$224, paid to the Judicial Department. This fee is waived if the person bringing the action is indigent. The fiscal note assumes any increase in revenue is minimal.

TABOR Refund

The bill may increase state revenue subject to TABOR by a minimal amount in FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

State Expenditures

Beginning in the current FY 2017-18, this bill impacts state agencies in several ways, as discussed below.

Public space maintenance. To the extent that this bill increases access to and use of public spaces, state agencies are anticipated to have increased costs to monitor and manage these spaces. Costs could include signage, law enforcement or security personnel, custodial, and other costs. As of this writing, these increases are anticipated to be accommodated through existing appropriations. If a particular state agency, such as the Department of Public Safety which provides security to the state's Capitol Complex, requires additional appropriations in the future, the fiscal note assumes the agency will request them through the annual budget process.

Enforcement relief. The bill prohibits a state or one of its subdivisions from enforcing existing laws that limit, prohibit, or penalize certain actions unless the person is experiencing homelessness and that government entity can show that it offered the person adequate housing and he or she refused to accept that offer. To the extent that organizations or individuals challenge any enforcement efforts, petitions for relief will be heard in a district court, increasing workload for the Judicial Department. If the defendant is the state, costs will increase for the Department of Law to represent the state. These impacts are assumed to be minimal and do not require an increase in appropriations for any state agency.

Local Government, School Districts, and Other Political Subdivisions

Beginning in the current FY 2017-18, this bill impacts local governments, school districts, special districts, and statutory public entities in several ways, as discussed below. The exact impact to a particular local government will depend on the existence and level of enforcement of ordinances, rules, and regulations that do not comply with the requirements of House Bill 18-1067.

Local government ordinances, rules, and regulations. Costs and workload may increase to amend ordinances, rules, and regulations concerning the use of public spaces in order to comply with the requirements of the bill. Similar to the state and to the extent that organizations or individuals challenge any enforcement efforts by local government entities, petitions for relief will be heard in a district court and costs will increase for those entities named in a petition to provide a defense. These impacts are not estimated in this fiscal note.

Public space maintenance costs. Similar to the state and to the extent that this bill increases access to and use of public spaces, local governments, school districts, special districts, and statutory public entities are anticipated to have increased costs to monitor and manage these spaces. Depending on the jurisdiction, costs could include signage, law enforcement, security, and other costs.

Municipal courts. Municipal attorneys and courts will experience a reduction in revenue and workload if fewer persons are prosecuted for and convicted of certain municipal violations, such as loitering or unauthorized camping. These impacts are not estimated in this fiscal note.

County jails. If municipal violations are currently resulting in jail sentences, costs will decrease. The cost to house an offender in a county jail varies from about \$53 to \$114 per day. These impacts are not estimated in this fiscal note.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

All Local Agencies All State Agencies