



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Initiative 160

Fiscal Impact Statement

Date: May 6, 2024

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LCS TITLE: PUBLIC ATHLETICS PROGRAMS FOR MINORS

Disclaimer. This initial fiscal impact statement has been prepared for an initiative approved for petition circulation by the Secretary of State. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.

Summary of Measure

Under the measure, any athletic team or event sponsored or sanctioned by a public school, school district, activities association, or a private school competing against a public school must be designated as one of the following:

- female, women, or girls;
- males, men, or boys; or
- coeducational, or mixed gender.

Only female students, based on the biological sex listed on the students' birth certificate, may participate in a sport or event designated for female, women, and girls. The measure does not restrict eligibility for men's or coeducational sports.

A governmental entity may not take any adverse action against a public athletics program for complying with the measure's requirements. A government entity or public athletics program is not liable to any student for its compliance, and failure to comply is a waiver of sovereign immunity, which would allow a person to file legal action against the government who violates the measure's requirements. The state must assume financial responsibility for any expense related to a lawsuit or complaint incurred by a public athletics program due to its compliance with the measure.

A student denied an athletic opportunity or who suffers harm as a result of a public athletics program violating the requirements has a private cause of action and is entitled to monetary damages, attorney fees, and other appropriate relief. A civil action must be initiated within two years of the alleged harm.

State Expenditures

The measure has an indeterminate, and potentially significant, impact on state expenditures, primarily related to legal expenses for local governments and public schools that comply with the measure. In addition, the measure increases workload and potentially costs for the Department of Law, Judicial Department, and Colorado School for the Deaf and Blind, as discussed below.

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Legal expenses. The measure makes the state financially responsible for any expense related to lawsuits or complaints incurred by public athletics programs for compliance with the measure's requirement. Under the measure, the state will be responsible for the actions of non-state entities, and those actions are unknown at this time and cannot be estimated. However, due to the number of public athletics programs and potential length and complexity of lawsuits and complaints, the state's financial obligations may be significant.

Department of Law. The measure increases workload and potentially costs for the Department of Law to manage the state's fiscal responsibility for lawsuits and other complaints against a public athletics program offered by a school district, public school, or local governments. Exact costs are unknown. Appropriations will be requested through the annual budget process based on actual cases filed against public athletics programs.

Judicial Department. The measure increases workload in the trial courts in the Judicial Department, as it creates a private cause of action for individuals to bring suit when alleging harm has occurred.

Colorado School for the Deaf and Blind. The Colorado School for the Deaf and the Blind, a state-run public school, is subject to the measure and may also have additional costs to implement the measure.

Local Government

The measure may increase expenditures for school districts, charter schools, and any local governments that offer public athletics programs for minors. Costs for public schools and local governments are expected to be minimal, and any legal cost associated with compliance are the financial responsibility of the state.

Effective Date

If approved by voters at the 2024 general election, this measure takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State and Local Government Contacts

Law Education