



**Colorado
Legislative
Council
Staff**

HB17-1314

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0833

Date: April 11, 2017

Prime Sponsor(s): Rep. Melton; Salazar

Bill Status: House Local Government

Fiscal Analyst: Ryan Long (303-866-2066)

BILL TOPIC: COLORADO RIGHT TO REST ACT

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018	FY 2018-2019
State Revenue Cash Funds	Minimal reduction.		
State Expenditures	Workload and potential expenditure increase.		
TABOR Impact	Potential reduction.		
Appropriation Required: None.			
Future Year Impacts: Ongoing revenue and expenditure impacts.			

Summary of Legislation

This bill establishes basic rights concerning the use of public space by people experiencing homelessness. Public space in this bill includes any property that is owned or leased by a state or local government, or any property with an easement for public use. This definition only applies to enclosed buildings during hours that building is open to the public. Rights established for the use of public space by people experiencing homelessness include:

- the right to move freely in public spaces;
- the right to rest, which includes sleeping in public spaces and seeking shelter from the elements in a nonobstructive manner;
- the right to eat, share, and accept food where not prohibited;
- the right to occupy a legally parked car; and
- the right to a reasonable expectation of privacy over personal property.

Providers of services to people experiencing homelessness are not obligated to provide shelter or other services that are unavailable.

Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. In the last three years, there were no convictions for unlawful conduct on public property. While there were no convictions at

the state level for unlawful conduct on public property, there may be convictions for other offenses that fall under the scope of this bill. In addition, it is assumed this bill will have an impact related to municipal ordinances.

State Revenue

Beginning in the current FY 2016-17, this bill may result in a minimal reduction in state cash fund revenue from court fees, fines, and penalties from a reduction in prosecutions for offenses related to the use of public spaces by people experiencing homelessness. The overall reduction in revenue to the Fines Collection Cash Fund in the Judicial Department is expected to be minimal as the affected population generally does not have resources to pay substantial fines.

TABOR Impact

This bill minimally reduces state revenue from fines and fees, which will reduce the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. TABOR refund obligations are not expected for FY 2016-17. Since the bill reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount.

State Expenditures

Beginning in FY 2017-18, costs and workload will increase for various state agencies to enforce the provisions in this bill and maintain public spaces. These increases are outlined below.

Department of Public Safety. To the extent that more people experiencing homelessness utilize public spaces within the jurisdiction of patrol units and downtown Denver's Executive and Capitol Complex Security Units, workload for the Colorado State Patrol (CSP) will increase. A greater concentration of people experiencing homelessness is expected to increase the CSP workload to enforce rules, including sanitation, hours of operation at public facilities, and intervention in conflicts related to use of public space. To the extent this workload increase is significant enough to require additional resources, it is assumed this increase will be addressed in the annual budget process.

Judicial Department. To the extent that there is an increase in individuals filing claims alleging violations of the basic rights created in this bill, there will be a workload increase for the trial courts in the Judicial Department. It is assumed that most governmental agencies will follow the law, and it is expected that this workload can be accomplished within current appropriations. As there were no convictions for unlawful conduct on public property in the last three years, it is assumed that the bill will not significantly decrease the workload of the Office of the Public Defender and the Office of Alternative Defense Council.

Department of Law. Affected agencies may seek legal counsel regarding implementation of this bill, potentially increasing the workload of the Attorney General's Office in the Department of Law. Additionally, to the extent that local governments challenge this law, there is a potential workload and expenditure increase for the department.

Other state agencies. State agencies that own or manage public property will experience potential workload and expenditure increases to maintain public spaces, post signage explaining rules, and provide appropriate security. This includes the Department of Personnel and Administration, which manages the Capitol Complex, and institutions of higher education, which may experience increases in workload and expenditures to maintain campus grounds and buildings. It is assumed any additional funds needed will be requested through the annual budget process.

Local Government Impact

The expenditures of local entities may increase to amend ordinances, rules, regulations, and policies, and to manage public spaces within the parameters of the bill. This includes potential expenditures related to security, law enforcement, and maintenance of public spaces. To the extent that existing rules, regulations, and policies conflict with the provisions in this bill, there may be a greater fiscal impact than estimated in this fiscal note.

Municipal courts. Municipal courts may experience a reduction in the number of cases prosecuted under municipal ordinances for loitering and similar violations, resulting in a decrease in workload and fine revenue for municipal ordinance violations. These impacts are not estimated in this fiscal note, but could be significant..

Denver County expenditures. The bill may minimally decrease workload for the Denver County Court, managed and funded by the City and County of Denver, from a reduction in the number of cases related to unlawful public conduct. Probation services in the Denver County Courts may also experience a minimal decrease in workload to supervise fewer persons convicted as a result of this bill.

Jail savings. This bill will likely reduce jail costs as a result of any municipal violations associated with unlawful public conduct amended by HB 17-1314. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. The impact of this bill has not been estimated.

Effective Date

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

State and Local Government Contacts

All state agencies