



Legislative
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HB 19-1096

FISCAL NOTE

Drafting Number: LLS 19-0547
Prime Sponsors: Rep. Melton

Date: February 25, 2019
Bill Status: House Trans. & Local Govt.
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Bill Topic: COLORADO RIGHT TO REST

**Summary of
Fiscal Impact:**

- | | |
|--|---|
| <input checked="" type="checkbox"/> State Revenue (<i>minimal</i>) | <input checked="" type="checkbox"/> TABOR Refund (<i>minimal</i>) |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input checked="" type="checkbox"/> Statutory Public Entity |

This bill provides every person certain rights in public spaces without being subject to criminal and civil penalties or harassment. The bill increases costs and workload for state agencies and its subdivisions, and reduces revenue for local governments. These impacts are ongoing.

**Appropriation
Summary:** No appropriation is required.

**Fiscal Note
Status:** The bill 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 discriminate based on housing status. In addition, this bill provides every person certain rights in public spaces without being subject to criminal and civil penalties or harassment. This includes the right of persons to:

- rest or sleep in public spaces and protect oneself from the elements in a nonobstructive manner;
- 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, for three consecutive months, the waiting lists for all public housing contain fewer than 50 people, it is exempt from the bill's enforcement prohibition. This bill authorizes the General Assembly to appropriate up to \$10 million over three years, beginning July 1, 2019, from the Marijuana Tax Cash Fund to the Department of Local Affairs (DOLA) to reduce public housing waiting lists for government entities that do not meet the exemption requirement.

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 2018-19, state cash fund revenue may increase if individuals or organizations challenge in district court 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.

State Expenditures

Beginning in the current FY 2018-19, 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 the state from enforcing existing laws that limit, prohibit, or penalize certain actions unless the person is experiencing homelessness and that government entity can show that, for three consecutive months, the waiting lists for all public housing contain fewer than 50 people. To the extent that organizations or individuals challenge any state or local enforcement efforts, petitions for relief will be heard in a district court, increasing trial court 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.

Department of Local Affairs. To the extent that funds from the Marijuana Tax Cash Fund are appropriated to the DOLA to reduce public housing waiting lists, costs and workload will increase for the DOLA to work with public housing authorities to provide tenant based rental assistance. For informational purposes, if \$10 million is appropriated over three years, this would result in an appropriations of \$3.33 million from FY 2019-20 through FY 2021-22.

TABOR refunds. This bill may increase state General Fund obligations for TABOR refunds by a minimal amount in current FY 2018-29 and FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government

Beginning in the current FY 2018-19, 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 this bill. These impacts have not been estimated.

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.

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 municipal violations, such as loitering or unauthorized camping.

County jails. If municipal violations are currently resulting in jail sentences, costs will decrease. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county.

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 and Local Agencies