



Legislative
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Nonpartisan Services for Colorado's Legislature

HB 20-1233

FINAL FISCAL NOTE

Drafting Number: LLS 20-0951	Date: July 14, 2020
Prime Sponsors: Rep. Melton; Benavidez . (None)	Bill Status: Postponed Indefinitely
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Bill Topic: **BASIC LIFE FUNCTIONS IN PUBLIC SPACES**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill would have prohibited state and local governments from restricting a person from conducting basic life functions in a public space or from occupying a legally parked motor vehicle. It would have increased state and local expenditures on an ongoing basis.

Appropriation Summary: For FY 2020-21, the bill would have required an appropriation of \$659,089 to the Department of Personnel and Administration.

Fiscal Note Status: The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 20-1233**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	General Fund	\$659,089	-
	Various Funds	-	\$644,855
	Centrally Appropriated	\$37,728	\$41,680
	Total	\$696,817	\$686,535
	Total FTE	2.7 FTE	3.0 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill prohibits state and local governments from restricting a person from conducting basic life functions in a public space, unless that government can offer alternative adequate shelter to the person, or from occupying a motor vehicle legally parked on public property or parked on private property with permission. Basic life functions are defined to include sitting, standing, leaning, kneeling, sleeping, lying down, eating, and sheltering oneself in a manner that does not render passageways impassable or hazardous.

The bill permits a person to take civil action against any government that enacts a law, regulation, or ordinance contrary to these prohibitions.

State Revenue

The bill may increase state revenue from civil filing fees. For informational purposes, the civil filing fee for county court ranges from \$85 to \$135 depending on the amount of damages sought and the filing fee for district court is \$235. Civil cases seeking damages of less than \$25,000 may be filed in county or district court, while cases seeking damages over \$25,000 must be filed in district court. Civil filing fees are subject to TABOR.

State Expenditures

The bill will increase General Fund expenditures by \$696,817 in FY 2020-21 and expenditures from various funds by \$686,535 in FY 2021-22 in the Department of Personnel and Administration (DPA), as shown in Table 2. In addition, the bill will increase workload and potential costs for the Department of Public Safety (DPS) and the Judicial Department beginning in FY 2020-21. These impacts are discussed below.

Table 2
Expenditures Under HB 20-1233

	FY 2020-21	FY 2021-22
Department of Personnel and Administration		
Personal Services	\$130,531	\$142,397
Operating Expenses	\$4,050	\$4,050
Capital Outlay Costs	\$18,600	-
Cleaning Services	\$417,600	\$417,600
Contracted Pest Control	\$80,808	\$80,808
Trash Receptacles	\$7,500	-
Centrally Appropriated Costs*	\$37,728	\$41,680
Total Cost	\$696,817	\$686,535
Total FTE	2.7 FTE	3.0 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Personnel and Administration. Costs in the DPA will increase to maintain public spaces in the Capitol Complex. The Capitol Complex program in the DPA pays for maintenance and upkeep of certain grounds and facilities owned by the state. The Capitol Complex includes 15 buildings: 11 in Denver, 3 in Lakewood, and 1 in Grand Junction. Maintenance costs are covered by the common policy cost pool and allocated to agencies that utilize Capitol Complex space. In FY 2020-21 only, the costs associated with this bill exceed what the common pool can absorb and require a General Fund appropriation. In future years, costs will be allocated through common policies and include a mix of fund sources. These costs are outlined below.

- *Personnel.* The DPA will required 2.0 FTE groundskeeper to maintain public spaces in the Capitol Complex, and 1.0 FTE Custodian for the State Capitol. DPA currently employs 12.0 FTE in the State Capitol for custodial services. Personnel are hired at the midpoint and first-year costs reflect the General Fund payday shift.
- *Cleaning services.* Costs for cleaning upkeep include contracted custodial services and pressure washing. The DPA will increase contracted custodial services at eight buildings, excluding the State Capitol, to manage increased traffic.
- *Pest control.* The DPA provides pest control for Lincoln Park and the State Capitol grounds at a cost of \$259 per week. This analysis assumes the need for expanded pest control services from once per week to twice per week and increasing the coverage area by a factor of four.
- *Trash receptacles.* The DPA will install a trash receptacle at each of the 15 buildings of the Capitol Complex at a cost of \$500 apiece.

Department of Public Safety. The Colorado State Patrol (CSP) in the DPS provides security to the Capitol Complex. Workload for the CSP will increase to the extent that people experiencing homelessness utilize public spaces within the jurisdiction of patrol units and downtown Denver's Executive and Capitol Complex Security Units. In accordance with the bill, the CSP will monitor resting persons for their own security and the security of their possessions. In addition, a greater concentration of the homeless population is expected to require an increase in CSP workload to enforce various rules, including sanitation and hours of operation at public facilities, as well as more work to intervene in conflicts related to the use of public space. This increase in workload is anticipated to be accomplished within existing appropriations; however, if the increase is more significant, this will be addressed through the annual budget process.

Judicial Department and Department of Law. The civil cause of action created by the bill could increase filings and hearings in trial court, which increases workload in the Judicial Department. The number of filings is expected to be minimal and no change in appropriations is required. If the defendant is the state, costs will increase for the Department of Law to represent the state.

Other state agencies. To the extent other state facilities experience an increase in public access, costs may increase to maintain groundskeeping and custodial services, as well as information and security services. These will be addressed through the annual budget process, as necessary.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$25,949 in FY 2020-21 and \$28,657 in FY 2021-22.

TABOR refunds. The bill may increase state General Fund obligations for TABOR refunds from filing fees. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Local Government

Beginning in the current FY 2019-20, 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 increase court-related costs 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, cleaning, law enforcement, and security.

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

This bill was postponed indefinitely by the House Transportation and Local Government Committee on February 26, 2020.

State Appropriations

In FY 2020-21, the bill requires a General Fund appropriation of \$659,089 and 2.7 FTE to the Department of Personnel and Administration.

State and Local Government Contacts

Counties
Local Affairs
Public Safety

Judicial
Municipalities

Law
Personnel