

Federal, State and Intergovernmental Relations (FSIR) Meeting
January 24, 2020

Members Present: Council Member Angela Lawson, Chair; Council Member Allison Hiltz, Vice-Chair; Council Member Crystal Murillo, Member

Others Present: Renee Mosley, Nancy Freed, Nancy Rodgers, Natasha Campbell, Kathy Kitzmann, Kim Skaggs, Terri Velasquez, Judge Shawn Day, Cammie Grant, Peggi O'Keefe, David Patterson

1. **APPROVAL OF MINUTES:** January 10, 2020 minutes were approved as written.
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2. **CONSENT ITEMS:** None.
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3. **Welcome and Introductions:**

Summary of Issue and Discussion: Chair CM Angela Lawson welcomed the committee.

Outcome: Information only.

Follow-up Action: None.

4. **STATE LEGISLATIVE UPDATE**

Summary of Issue and Discussion: P. O'Keefe gave an overview of the following bills.

Employee Protection lawful Off-Duty Activities: HB20-1089

The bill prohibits an employer from terminating an employee for the employee's lawful off-duty activities that are lawful under state law even if those activities are not lawful under federal law. The bill is scheduled to be heard in the House Business Affairs and Labor Committee on February 5th. Human Resources, Office of Marijuana Enforcement, the City Attorney's Office, and the Finance Department recommend an active oppose position.

This bill interferes with the City's ability to set the terms and conditions of employment. It is aimed at the off-duty use of marijuana, but the language is broad enough to cover any off-duty conduct that is illegal under federal law with no equivalent state prohibition. This would directly affect the City's compliance with the Federal Drug Free Workplace Act and the US Department of Transportation drug and alcohol policies for commercial driver's license holders.

P. O'Keefe said that Sen. Melton announced there will be a stakeholder's meeting on this bill the 28th of January. CM Hiltz asked if you can lose your CDL license without losing your employment? But since you no longer have a CDL license you can no longer perform an essential

duty of your job. Renee Mosley, Risk Manager, said that it depends on the position that person has in the city. There are several steps that need to be taken according to federal law if a person tests positive for drugs. Nancy Rodgers, Deputy City Attorney, said one would get into conflict with what is legal under state law is not legal under federal law. CM Hiltz asked if a police officer tests positive for a drug test or get a DUI do they automatically lose their job because they would lose their CDL license. N. Rodgers said no, the police officer would get reassigned to desk assignment or they work with the DMV to get limited authority to drive for work.

CM Lawson asked who is invited to the stakeholder meeting. P. O'Keefe is not sure who is invited but as a lobbyist she has an invite and can ask Luke Palmisano to attend as well. CM Lawson said that would be a good idea. CM Lawson asked if the committee would like to actively oppose this bill. CM Hiltz said she would like more information from the stakeholder meeting. CM Murillo agreed to wait for more information before taking a position. CM Lawson said the committee is not taking a position on the bill they will wait for more information from the stakeholder meeting.

Battery-charged Electric Fences: HB20-1129

The bill defines what a battery-charged fence is and limits the extent to which a local government can impose requirements relating to the installation or use of a battery-charged fence. The bill is scheduled to be heard in the House Transportation and Local Government Committee on February 5th. CML has taken an oppose position on the bill. Finance, Planning, and the City Attorney recommend an active oppose position.

The City prohibits all electrically charged fences, section 146-4.7.9(1). This bill violates home rule authority by requiring the City to permit battery charged (electrically charged) fences. It also prohibits fees for inspections related to the electric charged fenced.

P. O'Keefe said this bill does not look like it will pass with its current language and she suggests to monitor it. CM Lawson, CM Murillo and CM Hiltz agreed to only monitor the bill at this time.

Public Real Property Index: HB20-1138

The bill requires each state agency, state institution of higher education, and political subdivision of the state to submit to the office of the state architect (office) a list of all usable real property owned by or under the control of the agency, institution, or political subdivision of the state. Public Works recommended an active oppose position.

This bill would place significant financial burden on the city and is an unfunded mandate. CM Lawson asked for more information on the bill, who is sponsoring the bill, what is staff's reasoning for opposing the bill. CM Lawson, CM Murillo and CM Hiltz agreed to wait for more information on the bill before considering a position.

Workers' Compensation for Audible Psychological Trauma: SB20-026

This bill concerns eligibility for workers' compensation benefits for workers who are exposed to psychologically traumatic events visually or audibly. The bill has been assigned to the Senate Business, Labor & Technology Committee. No hearing date has been set. The Intergovernmental Relations Department is seeking approval to pursue changes through the bill sponsor.

This bill expands the scope of what is commonly referred to as the PTSD statute to include persons who may see or hear images involving the death of a person or the violent death of multiple people even if this type of exposure is within the worker's usual experience in performance of their duties. P. O'Keefe said that Sen. Fields through this bill is trying to make sure workers who have suffered emotional trauma while at work are covered. But the bill's language appears to be broader than just that and she recommends visiting with the sponsor and explain that the city agrees with the intent but the language is too broad. CM Lawson, CM Murillo and CM Hiltz agreed to allow the lobbyist and/or L. Palmisano to speak to the bill sponsor.

Out-of-Network Health Care Services: HB19-1174

The 2019 legislation concerns out-of-network health care services provided to covered persons. Aurora contracts with a Falck to provide EMS services. This 2019 bill has had unintended consequences with regards to surprise medical bills. The rule making for this bill leaves out private companies and only includes in-house services. The draft regulations seem to place a surprise burden on the government entities that contract with non-governmental providers of emergency ambulance service by requiring those government entities to compensate their designated non-governmental providers of emergency ambulance service when those services are utilized in their respective jurisdictions. This would have a negative fiscal impact. The Intergovernmental Relations Department is seeking FSIR approval to engage DORA and the state legislature on a solution. David Patterson, CEO, Falck Ambulance Services, explained that public fire ambulance providers are exempt from surprise medical billing but private organizations are not. Falck is not able to bill the patient for the portion that insurance doesn't cover but the fire department ambulances can. He asked the committee's support to change the language during rule making so the provisions are the same for both private and in-house services or through a clean up bill. The second issue D. Patterson addressed is that the bill requires private ambulance companies to bill the city directly for each patient transport. CM Lawson asked the committee if they would agree to seek those recommendations. CM Murillo, CM Hiltz and CM Lawson agreed allow the city and Falck to work with interested groups on solutions.

Worker's Compensation: HB20-1154

This bill makes changes to the Workers' Compensation Act of Colorado. The bill has been assigned to the House Business Affairs and Labor Committee. No hearing date has been set. The Intergovernmental Relations Department is seeking approval to pursue changes through the bill sponsor. It will increase the City's overall cost for workers' compensation cases and increase eligibility of injured workers to receive a higher indemnity award. CM Murillo asked what changes the city is seeking to pursue. R. Mosely said the bill would drive up the cost for the city and they would like to oppose it. CM Lawson asked if staff is asking to actively oppose. P. O'Keefe said that if the city has specific changes to request it would be good to meet with the sponsors. Terri Velasquez, Finance Director, said the consensus was that staff would like to share their concerns with the bill sponsor as a first step and also see where CML is on this bill. CM Lawson, CM Murillo and CM Hiltz agreed to have staff meet with the bill sponsor to voice their concerns with the bill.

Robotic Device Deliver Cargo: SB20-092

Concerning the regulation of self-propelled devices used to deliver cargo, and, in connection therewith, specifying standards for the operation of robotic devices within pedestrian areas and on highways. The bill has been assigned to the Senate Business, Labor & Technology Committee. No hearing date has been set. The Intergovernmental Relations Department is seeking approval to pursue changes through the bill sponsor.

There are a local control issues associated with this bill. Bill prohibits elements of local regulation of robotic delivery devices and may violate the state constitution regarding areas of local concern. The bill authorizes robotic devices in pedestrian areas but prohibits cities from regulating zones or hours of operation or substantially prohibiting the devices. CM Lawson, CM Murillo and CM Hiltz agreed to have staff meet with bill sponsor to pursue changes.

Grace Period Before Failure to Appear Warrant: HB20-1123

The bill prohibits a court from issuing a warrant for failing to appear at a scheduled court appearance for 72 hours after the missed appearance. If the defendant presents himself or herself to the court during the 72-hour period, the court shall not issue a warrant. The bill has been assigned to the House Judiciary Committee. No hearing date has been set. Judge Day recommends an active oppose position.

This bill will have direct impact on the municipal court. Clarification is needed to the language of the bill to minimize the impact on the Court's ability to bring a case to final adjudication.

Judge Shawn Day said there has been talk about a stakeholder meeting. He would like direction from the committee whether they would like him to attend the stakeholder meetings or be an active part of the discussion or not. CM Lawson said her opinion is that Judge Day should be at the stakeholder meetings and the committee will continue to monitor the bill. CM Murillo agreed, she said she is not comfortable opposing the bill at this time since there are times when a person has been issued a warrant for not showing up to court because they were in the hospital, but she understands the indefinite continuation of the 72 hour grace period. CM Hiltz also agreed for Judge Day to attend the stakeholder meetings and monitor the bill.

P. O'Keefe gave an overview of 3 bills that are for information only.

Retaliation Against an Elected Official: HB20-1121

Under current law, there is a crime of retaliation against a judge if an individual makes a credible threat or commits an act of harassment or an act of harm or injury upon a person or property as retaliation or retribution against a judge. The bill adds elected officials and their families to the crime. The bill is scheduled to be heard in the House Judiciary Committee on January 30th.

Expand Authority for Regional Transportation Improvements: HB20-1151

The bill authorizes a transportation planning organization (TPO) to exercise the powers of a regional transportation authority (RTA). These powers include the power to impose various charges, fees, and, with voter approval, visitor benefit, sales, and use taxes to generate transportation funding.

Consumer and Employee Dispute Resolution Fairness: SB-093

SB-093 seeks to further define the rules governing the claim of partiality in arbitration proceedings. This bill could impact construction defect reform legislation that was passed in 2018. City staff is currently reviewing the bill to determine potential impacts.

5. MISCELLANEOUS MATTERS FOR CONSIDERATION

CM Hiltz said she will be bringing a resolution regarding oversight of immigration detention centers to the next FSIR meeting. CM Lawson said she is bringing a resolution regarding 16 year-olds voting in school district elections.

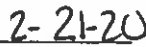
Kathy Kitzmann, Water Resources Principal, gave an overview of SB20-065 Limit Mobile Devices While Driving. She said this bill was introduced last year but did not pass. Staff opposed it last year and would oppose this bill as well because water drivers use handheld radios. They would like to ask for an amendment to exempt city workers. N. Freed asked if this bill could be brought to the next FSIR meeting. The committee agreed to have this bill addressed at the next FSIR meeting.

6. CONFIRM NEXT MEETING

The next meeting is scheduled for February 7, 2020, 1:00 PM in the Mt. Elbert conference room.

Approved:


Angela Lawson
Committee Chair


Date