

Federal, State and Intergovernmental Relations (FSIR) Meeting

June 26, 2020

1:00 PM

WebEx Meeting

Access information provide to Internal Staff

Public Participation Dialing Instructions

Dial Access Number: 1-877-820-7831

Enter Participant Code: 254610#

Council Member Angela Lawson, Chair

Council Member Allison Hiltz, Vice Chair

Council Member Crystal Murillo, Member

Serve as leaders and partner with other governments and jurisdictions

1. Consent Items (None)
2. Approval of Minutes Lawson
3. Federal Legislative Update Hettinger
4. State Legislative Update-Wrap-up of 2020 Session O'Keefe/Palmisano
5. Veterans Service Officer (VSO) IGA Palmisano/Hernandez Perez
6. Water- CORE Act/Camp Hale National Landscape Kitzmann
7. Miscellaneous Matters for Consideration

Next meeting – TBD

**Federal, State and Intergovernmental Relations (FSIR) Meeting
Video Conference Call Meeting**

June 12, 2020

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

Others Present: Roberto Venegas, Luke Palmisano, Nancy Rodgers, Natasha Campbell, Kathy Kitzmann, Peggi O’Keefe, Totsy Rees, Lauri Hettinger, Council Member Curtis Gardner, Council Member Alison Coombs, Council Member Dave Gruber, Council Member Juan Marcano, Trevor Vaughn, Rachel Allen

1. **APPROVAL OF MINUTES:** May 29, 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 to the video conference call and introductions were made.

Outcome: Information only.

Follow-up Action: None.

4. **FEDERAL LEGISLATIVE UPDATE:** Lauri Hettinger, federal lobbyist, gave an update on current federal legislation. Congress is expecting another COVID related bill. The House passed the HEROS act. It has no chance of passing the Senate. The Senate has been trying to work on its own version of the bill. There may be a draft after the July 4th recess. On Sunday, May 31, Rep. Justin Amash (L-MI) announced that he would be introducing the Ending Qualified Immunity Act to eliminate qualified immunity and restore Americans’ ability to obtain relief when police officers violate their constitutionally secured rights. In outlining the bill, he gave the following background:
 - ‘As part of the Civil Rights Act of 1871, Congress allowed individuals to sue state and local officials, including police officers, who violate their rights. Starting in 1967, the Supreme Court began gutting that law by inventing the doctrine of qualified immunity.
 - Under [qualified immunity](#), police are immune from liability unless the person whose rights they violated can show that there is a previous case in the same jurisdiction, involving the exact same facts, in which a court deemed the actions to be a constitutional violation.
 - This rule has sharply narrowed the situations in which police can be held liable—even for truly heinous rights violations—and it creates a disincentive to bringing cases in the first place.

- If a plaintiff knows there is no prior case that is identical to theirs, they may decline to even file a lawsuit because they are very unlikely to win.
- Even if a plaintiff does file a case, a judge may dismiss it on qualified immunity grounds and decline to decide whether the plaintiff's rights were violated, meaning the constitutional precedent still isn't established and so the next plaintiff still can't recover.
- This can create a permanent procedural roadblock for plaintiffs, preventing them from obtaining damages for having their rights violated.
- Qualified immunity was created by the Supreme Court in contravention of the text of the statute and the intent of Congress. It is time for us to correct their mistake.
- This bill, the Ending Qualified Immunity Act, does this by explicitly noting in the statute that the elements of qualified immunity outlined by the Supreme Court are not a defense to liability.
- The brutal killing of George Floyd by Minneapolis police is merely the latest in a long line of incidents of egregious police misconduct.
- This pattern continues because police are legally, politically, and culturally insulated from consequences for violating the rights of the people whom they have sworn to serve. That must change so that these incidents of brutality stop happening.
- Until then, we must ensure that those whose rights are violated by police aren't forced to suffer the added injustice of being denied their day in court.'

Rep. Ayanna Pressley (D-MA) is co-leading the bill and it is amassing numerous cosponsors.

CM Murillo asked where the Colorado state delegation stands on this bill. L. Hettinger said Congressman Crow is very interested in this bill. On the Senate side it is still unclear.

CM Lawson asked if the Trump administration is initiating something regarding police reform. L. Hettinger said President Trump did hold a meeting yesterday with law enforcement. But is not aware what they are doing today. She will find out and share any information.

The House transportation and infrastructure committee is considering a transportation reauthorization bill. It will provide money for different projects the city is interested in. They have not identified how they will pay for the bill yet. It will most likely be extended to next year.

CM Murillo said it seems hard to talk about bills that we know will not go anywhere. Do we know what the opposition will look like? L. Hettinger said, some Republicans think the bill is too expensive and there are some environmental provisions in it that they do not like either.

Summary of Issue and Discussion: Information only.

Outcome: Information only.

Follow-up Action: None.

5. STATE LEGISLATIVE UPDATE

Summary of Issue and Discussion: Nancy Rodgers, Assistance City Attorney, gave an update of SB20-217 Enhancing Law Enforcement Integrity:

This bill concerns new mandates on local law enforcement agencies including requiring all on-duty officers to wear body cameras, requirements on releasing body camera footage, and mandates for the Police Officer Safety and Training (POST) Board on tracking footage. The bill also includes

measures concerning the inappropriate use of force by officers, the ability for a citizen to bring a civil suit, and liability of officers and police departments.

The bill passed third reading by a vote of 32-1 on Tuesday, June 9, 2020 by the Senate Committee of the Whole. The bill is scheduled for a hearing in the House Appropriations Committee Thursday, June 11, 2020.

After initially opposing the bill, Senate Republicans worked with bill sponsors on substantive amendments. Among the amendments was an extension of the deadline for peace officers to have body cameras to July 1, 2023. The defense of qualified immunity is specifically prohibited with regard to the liability of a peace officer as outlined in the bill. If a peace officer is found to have not acted in good faith, they are personally liable for 5% of a judgement up to \$25,000 but if the amount is not able to be collected, the amount can be recovered from the peace officer's employing jurisdiction or insurer. This amount has been lowered from \$100,000 included in the original draft. Other amendments included: changes that clarified what is considered a stop or contact with the community; limits to the collection of demographic information; an extension of the statutes of limitation for filing a claim; means to address privacy issues related to body camera footage; and coverage of an officer in the event of a body camera malfunction.

N. Rodgers said the Colorado Association of Chiefs of Police has taken a more neutral or supportive stance on this bill since it has been amended from the original version. There are still some parts of the bill that are concerning. The expansion of body worn cameras could result in needed software and additional staff. They are good ideas but will result in additional costs for the city to comply. Luke Palmisano said city staff recommended a position of active support. CM Murillo said she supports the bill even though she does not agree with all of the amendments. It is a moot point now since we had no control over the amendments that were made. CM Lawson said she supports the bill as well. She said she did not agree with all of staff's reasoning for some of the amendments that were presented. CM Hiltz said she supports the bill but it does not go far enough and it was watered down significantly from where it started. Even the original bill did not go far enough in certain areas. She is glad the privacy issues were addressed. Committee unanimously agreed to actively support the bill.

CM Gardner said he agrees that the bill got significantly watered down. There are still some positive things in there. He said he did have some reservations to the some of the body camera policies and the privacy issues, but most of these have been addressed in the amendments. He said he agrees with CM Hiltz that this is a very watered down version, while it is a step in the right direction there is a lot more to be done.

Trevor Vaughn, Manager of Tax and Licensing, gave an update on Cigarette Tobacco And Nicotine Products Tax : HB20-1427. This bill concerns the taxation of products that contain nicotine, and, in connection therewith, incrementally increasing the cigarette tax and the tobacco products tax. This bill passed second reading the House Committee of the Whole on Thursday, June 11, 2020 and is on the calendar for third reading today, Friday June 12, 2020. T. Vaughn said it does not have a direct impact on the city, there are couple issues the committee should be aware of. The bill increases the State's occupational tax. Before 1973 the city used to charge an occupational tax on cigarettes. In 1973 to simplify matters the State started collecting that tax instead of the cities and then share a portion of that money with the municipalities. In this new bill there is no provision for revenue sharing of the increase of the occupational tax. The city will still get the same share back from the state even though they are increasing the tax. Because the city revoked the cigarette exemption the Department of Revenue is incorrectly interpreting that the city will not receive any of the money shared in either the new or the old bill. Since they are discussing this bill it may be a good time to try and resolve these issues. CM Lawson asked if staff is going to

take this up with the bill sponsor. T. Vaughn said it is up the committee on how they would like to handle it. L. Palmisano said the committee could take a position to work on changes with bill sponsor. To remind the state that there is this an agreement to share the tax with municipalities and to ask if the increase will be passed on to the municipalities as well. CM Lawson said we should say something. CM Murillo agreed to pursue changes though the bill sponsor. CM Hiltz agreed to that as well.

Peggi O'Keefe, state lobbyist, gave an update on the state legislative bills they are monitoring.
Mobile Home Park Act Updates: HB20-1196

This bill concerns updates to laws governing mobile home parks including eviction, tenancy, and rental agreements. The Aurora Mobile Home Task Force met fifteen times over 2018-2019 and outlined key findings and recommendations including creating city policies and defining best practices that support and protect mobile home parks and mobile home residents in the city of Aurora. This bill passed the Senate Committee of the Whole on Friday, June 5, 2020. It will head to the governor for his signature or veto.

Mobile Home Park residents Opportunity to Purchase: HB20-1201

Concerning providing home owners in a mobile home park the opportunity to purchase the park under specified circumstances. The Aurora Mobile Home Task Force met fifteen times over 2018-2019 and outlined key findings and recommendations including creating city policies and defining best practices that support and protect mobile home parks and mobile home residents in the city of Aurora. An amended version of this bill passed the House Committee of the Whole on Wednesday, June 3, 2020. It will head to the governor for his signature or veto.

Workers' Compensation for COVID-19: SB20-216

This bill provides that, for purposes of the "Workers' Compensation Act of Colorado", if an essential worker who works outside of the home contracts COVID-19, the contraction is: Presumed to have arisen out of and in the course of employment; and a compensable accident, injury, or occupational disease. An essential worker is considered to have contracted COVID-19 if the worker tests positive for the virus that causes COVID-19, is diagnosed with COVID-19 by a licensed physician, or has COVID-19 listed as the cause of death on the worker's death certificate. The bill was postponed indefinitely by the Senate Appropriations Committee on Wednesday, June 10, 2020.

Sick Leave for Employees: SB20-205

The bill creates the Healthy Families and Workplaces Act (act), which requires employers to provide paid sick leave to employees under various circumstances. On and after the effective date of the act through December 31, 2020, employers are required to provide each of their employees paid sick leave for employees to take for reasons related to the COVID-19 pandemic in the amounts and for the purposes specified in the federal Emergency Paid Sick Leave Act in the Families First Coronavirus Response Act.

The bill is on the House Committee of the Whole calendar for second reading for Thursday, June 11, 2020.

Create Occupational Credential Portability Program: HB20-1326

This bill concerns an expansion of an individual's ability to practice an occupation in Colorado through creation of an occupational credential portability program. This bill is viewed as a necessary component to attract the permanent US Space Command Base to Colorado and has been fast tracked. This bill passed the Senate Committee of the Whole on Wednesday, June 3, 2020. It will head to the governor for his signature or veto.

P. O'Keefe said she does not expect to see any more bills introduced since the legislative session is almost over. CM Lawson asked for a status on HB20-1009 the suppression of court records in eviction proceedings. P. O'Keefe said it was signed by the Governor. CM Murillo asked for an update on the bill related to evictions sponsored by Rep. Gonzalez. P. O'Keefe said this is HB20-1410 and it did pass but was watered down a lot. She will get more information on what that bill looks like now. CM Murillo said she had heard that even if the Fair Tax bill passed both chambers the Governor would not sign it. Is there any truth to this? P. O'Keefe said the Fair Tax bill has been a big deal. It looks like it could go one of two ways; either the bill will die and or the Governor vetoes it or it is amended dramatically. CM Lawson asked if there is a bill in the works that would create a loan relief fund for small businesses impacted by COVID? Totsy Rees said she believes so but would have to do more research. CM Lawson also asked about the bill regarding relief funding for housing, food and energy assistance? T. Rees said there was a utility relief bill that passed and is on its way to the Governor's office. She will send the final bill to the committee for informational purposes. CM Hiltz said that the bill that created oversight for detention centers passed. CM Lawson asked if all the bills the city has taken a position on could be compiled into a spread sheet. L. Palmisano said he would get that done in the next week. CM Gruber asked since the Colorado supreme court ruled that the legislature does not have to meet on consecutive days, is there a possibility that they go into a recess and then come back and possibly overrule the Governors vetoes. T. Rees said she did hear something to that effect.

Outcome: Committee unanimously agreed to seek changes through bill sponsor on Cigarette Tobacco and Nicotine Products Tax: HB20-1427.

Follow-up Action: Staff seek changes through the bill sponsors for the Cigarette Tobacco and Nicotine Products Tax: HB20-1427.

6. WATER

Summary of Issue and Discussion: Kathy Kitzmann, Water Resources Principal gave an update on the following:

Draft State Legislation – Establish State Dredge & Fill Permit Program

Thank you for the email approval to take an “actively oppose” position on the draft bill to establish a state dredge & fill permit program. The draft bill was strongly opposed by water providers and regulated community. Colorado Water Congress sent a letter to the General Assembly requesting that the bill not be introduced. We were aligned with CWC's message. So far the draft dredge & fill bill has not been introduced and not likely to be introduced. We anticipate that the Colorado Department of Public Health and Environment will begin a stakeholder process to refine any desired legislation for next session.

HB20-1412 COVID 19 Utility Bill Payment Related Assistance

Introduced on June 4th, HB20-1412 allocates \$10 million of federal CARES act funding to the Colorado Energy Office to provide direct utility bill payment assistance to households facing economic hardship due to COVID-19 pandemic. Unfortunately, the utility bill payment assistance in HB20-1412 does not include water bills. We inquired about adding water bill assistance. Energy Outreach Colorado had considered including water as they work with a number of water utilities, including Aurora Water Cares program. Energy Outreach Colorado felt adding water was part of a much larger discussion then the time would allow for HB20-1412 in this short session. Energy Outreach Colorado is interested in doing more water utility assistance and planning on undertaking discussions later this summer. The water department will not be taking position on HB20-1412.

Outcome: Information only.

Follow-up Action: None.

7. MISCELLANEOUS MATTERS FOR CONSIDERATION

CM Murillo asked if the committee is going to take a position on the Qualified Immunity bill. L. Palmisano said he did not think there is enough information to present to council at this time. But it would be a good bill to bring to the council. CM Lawson said to be in compliance and for transparency will the committee need to call an emergency meeting on this issue? L. Palmisano said if the committee meets in two weeks it will allow enough time. The committee decided to meet in two weeks and will decide if they want to go to meeting once a month.

8. CONFIRM NEXT MEETING

The next meeting is scheduled for June 26, 2020, 1:00 PM WebEx video conference meeting.

Approved:

Angela Lawson
Committee Chair

Date

TO: MAYOR COFFMAN AND CITY COUNCIL

FROM: CAPITOL CAPITAL PARTNERS

SUBJECT: CITY OF AURORA END OF SESSION REPORT 2020: HOUSE

DATE: JUNE 17, 2020

Key Bills:

HB20-1044

MODIFY PENSION PLANS ADMINISTERED BY FPPA

https://leg.colorado.gov/sites/default/files/2020a_1044_signed.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1044_r2.pdf

Senate Sponsors: Sens. L. Garcia; J. Ginal

House Sponsors: Reps. S. Bird; A. Garnett

Official Summary:

The bill modifies various pension plans administered by the Fire and Police Pension Association (FPPA). Statewide Death and Disability (SWD&D) Plan.

Beginning January 1, 2021, the bill increases member and employer contributions to the SWD&D plan from 2.8 percent to 3.0 percent of base salary. Thereafter, the bill authorizes the FPPA Board to further increase the contribution rate by 0.2 percent annually.

Statewide Defined Benefit (SWDB) Plan. Beginning January 1, 2021, the bill increases the employer contribution rate to the SWDB plan from 8 percent to 12 percent of base salary. The rate increase is to be implemented over eight years with an increase of 0.5 percent a year.

Beginning January 1, 2021, the bill allows a member to retire with unreduced retirement benefits if they are at least 50 years old and have a combined age and years of service equal to at least 80 years. Under current law, a member is eligible for early retirement with a reduced benefit.

The bill allows these unreduced benefit costs to be paid for by an additional 1 percent to the employer contribution rate. This additional rate increase is to be implemented over two years at a contribution rate increase of 0.5 percent of base salary each year. The bill allows the implementation of this rate increase to be deferred if other employer contribution rate increases are being carried out.

The bill authorizes the FPPA Board to increase the member contribution rate if:

- the rate increase is equal for the member and the employer;
- the increase does not affect the plan's status as a qualified plan under federal tax code;
- the increase is approved by 65 percent of the active members of the plan who vote in the election proposing an increase in the member contribution rate; and
- the increase is approved by more than 50 percent of the employers having active members covered by the plan who vote in the election proposing an increase in the member contribution rate.

The bill also authorizes the FPPA Board to decrease the additional contribution rate applied to members and employers that withdrew from the SWDB plan and have reentered, if they determine the rate is higher than what is necessary to pay the costs of the members that rejoined the plan.

Old Hire Pension Plans. The bill grants authority to the FPPA Board to modify the method used to set the contribution policy for employers as the plans' liabilities wind down.

Stabilization Reserve Account (SRA). The bill removes the requirement that any excess amounts between the combined employer and employee contributions and the actuarially determined contribution rate be allocated to the Stabilization Reserve Account (SRA). In addition, the bill converts all individual accounts in the SRA to defined contribution retirement accounts, subject to self direction by the member. The bill requires the FPPA Board to transfer these accounts before January 1, 2021. Finally, the bill codifies certain sections in statute to conform to current plan benefits and increases in member contribution rates the are already in effect.

Position: Oppose

Status: Signed by Governor (4/1/20)

Notes: This bill is an unfunded mandate and creates a fiscal hardship for municipalities.

HB20-1089

EMPLOYEE PROTECTION LAWFUL OFF-DUTY ACTIVITIES

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1089_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1089_f2.pdf

House Sponsor: Rep. Melton

Official Summary:

The bill clarifies that it is unlawful for an employer to terminate an employee for engaging in any activity that is legal under state law, regardless of its legal status under federal law, while off the premises of the workplace and during non-working hours. Under current law, an employer may restrict such activity if it relates to a bona fide occupational requirement or is related to employment activities of a particular employee or group of employees, or to avoid a conflict of interest.

Position: Oppose

Status: House Committee on Business Affairs & Labor Postponed Indefinitely (2/19/20)

HB20-1129

BATTERY-CHARGED ELECTRIC FENCES

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1129_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1129_00.pdf

House Sponsors: Rep. K. Van Winkle; M. Froelich

Official Summary:

The bill permits property owners to erect a battery-charged electric fence on property that is not zoned exclusively for residential use, among other limiting criteria. If a person wishes to install or use a battery-charged fence, the local government in which the property resides may perform an inspection to verify the fencing meets statutory definitions. The local government may not charge any permit or inspection fee for this verification, or otherwise prohibit or impose installation or operational requirements for battery-charged fencing used for security purposes.

Position: Oppose

Status: House Committee on Transportation & Local Government Postponed Indefinitely
(3/3/20)

HB20-1138

PUBLIC REAL PROPERTY INDEX

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1138_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1138_00.pdf

House Sponsors: Reps. J. Coleman; C. Larson

Senate Sponsors: Sens. J. Bridges; B. Gardner

Official Summary:

This bill requires each state agency, state institution of higher education, and political subdivision of the state to annually submit a list of its usable real property to the Office of the State Architect (OSA) in the Department of Personnel and Administration (DPA), beginning no later than December 31, 2020. The list must include the real property's address, size, and zoning; contact information for the entity that owns or controls the real property; the plan for its use, development, or sale; a description of the condition of the real property, and a measurement of the total area of the real property that is vacant, unused, or underdeveloped. In addition, each state agency, state institution of higher education, and political subdivision of the state must submit annual updates to the information originally provided, no later than December 31 of each year following the first report. Beginning July 1, 2021, any state agency, state institution of higher education, and political subdivision of the state must notify the OSA when it plans to sell any real property. The bill requires the OSA to establish and maintain a free, publicly available website that includes the information it receives from any state agency, state institution of higher education, and political subdivision of the state on publicly-owned real property in the state and on any plans to sell such property.

Position: Opposed

Status: House Committee on Transportation & Local Government Refer Amended to Appropriations (2/19/20) - Died on the calendar

Notes: Charter schools are concerned about the impact

HB20-1149

16-YEAR-OLDS VOTING IN SCHOOL DISTRICT ELECTIONS

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1149_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1149_r1.pdf

House Sponsor: Rep. S. Gonzales-Gutierrez

Senate Sponsor: Sen. D. Moreno

Official Summary:

The bill allows minors ages 16 and 17 who are preregistered to vote to cast a ballot in elections for the state board of education, school district officers, and on referred measures regarding mill levies, property taxes, school district organization and representation, and school district financial obligations or indebtedness. It also allows preregistrants to circulate and sign petitions

to nominate or recall a school district officer, or to initiate an election under Title 22, Colorado Revised Statutes. County clerks must inform preregistered voters that their voter information will no longer be confidential as of July 1, 2021. The bill requires the state to reimburse counties for the direct costs associated with ballots sent to preregistered minors for any coordinated election, and also requires the General Assembly to make a General Fund appropriation to the Department of State to cover the costs of implementing the bill. The bill includes provisions to preserve the anonymity of preregistrants in school districts where the total number of preregistrant votes is less than 10 in a given school district. Additionally, minors ages 16 and up are allowed to serve as student election judges and may work up to 12 hours per day for that purpose. Lastly, the bill specifies that any election offense alleged to have been committed by a preregistered minor may not be transferred to district court and must remain under the jurisdiction of juvenile court.

Position: Support

Status: House Committee on State, Veterans, & Military Affairs Refer Amended to Appropriations (3/3/20) - Died on the calendar

HB20-1151

EXPAND AUTHORITY FOR REGIONAL TRANSP IMPROVEMENTS

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1151_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1151_00.pdf

House Sponsor: Rep. M. Gray

Senate Sponsor: Sen. F. Winter

Official Summary:

Current law allows municipalities and counties to join together to create regional transportation authorities (RTAs) to finance, construct, operate, or maintain a regional transportation system. This bill allows transportation planning organizations (TPO) to act as RTAs by adopting a resolution. If a TPO decides to adopt a resolution to exercise the powers of an RTA, the resolution must include: • the regional transportation systems that the TPO plans to provide, such as transit; and • the boundaries of the proposed RTA, which, without their consent, may not include municipalities or unincorporated areas of counties that are not members of the TPO. TPOs are subject to the all the requirements and limitations of RTAs and several other laws, including notice requirements, public hearings, intergovernmental agreements, and voting requirements. However, when context indicates that a requirement or limitation cannot reasonably be applied to a TPO, the requirement or limitation does not apply to a TPO acting as an RTA. In addition, the Department of Transportation (CDOT) and the Transportation Commission may not take into account any additional funding received by TPO acting as a RTA when allocating state transportation funding. CDOT must provide evidence that any state transportation funding to a TPO has not been reduced when submitting its annual proposed budget allocation plan.

Position: Support

Status: House Committee on Transportation & Local Government Refer Amended to Appropriations (3/11/20) - Died on the calendar

HB20-1154

WORKERS' COMPENSATION

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1154_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1154_00.pdf

House Sponsors: Reps. T. Kraft-Tharp; K. Van Winkle

Senate Sponsors: Sens. Marble; Bridges

Official Summary:

The bill makes various changes and clarifications to the Workers' Compensation Act of Colorado, including:

- clarifies when benefits and penalties payable to an injured worker are deemed paid;
- adds guardian and conservator services in the list of medical aid that an employer is required to provide to an employee incapacitated as a result of a work-related injury or occupational disease;
- requires claimants to submit for mileage reimbursement related to obtaining medical care within 120 days of incurring the expense, and requires the employer or insurer to pay or dispute the mileage within 30 days of submission;
- clarifies that offsets to disability benefits granted by the federal "Old-Age, Survivors, and Disability Insurance Amendments of 1965" only apply if the payments were not already being received by the employee at the time of the work-related injury;
- prohibits the reduction of an employee's temporary disability or medical benefits based on apportionment, limits apportionment of permanent impairment to specific situations, and declares that the employer or insurer bears the burden of proof at an apportionment hearing regarding a reduction in permanent impairment or permanent total disability benefits;
- makes various changes to the process through which an employer or insurer may request an independent medical examiner in determining maximum medical impairment;
- lowers the whole person impairment rating threshold for combined temporary disability and permanent partial disability payment caps;
- prohibits an employer or insurer from withdrawing an admission of liability two years after the date of admission, except in cases of fraud;
- prohibits the director of the Division of Workers' Compensation or an administrative law judge from determining issues of compensability or liability unless specific benefits or penalties are awarded or denied at the same time;
- clarifies the scope of authority of prehearing administrative law judges;
- increases the threshold amount that an injured worker must earn in order for permanent total disability payments to end, and allows for annual adjustment to the threshold beginning in 2021; and
- clarifies the types of orders from the Division of Workers' Compensation or administrative law judge that are subject to review or appeal.

Position: Pursue changes through bill sponsor

Status: House Committee on Business Affairs & Labor Refer Unamended to Appropriations -
Died on calendar

HB20-1196

MOBILE HOME PARK ACT UPDATES

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1196_rer.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1196_00.pdf

House Sponsors: Reps. E. Hooton; J. McCluskie

Senate Sponsors: Sens. S. Fenberg; P. Lee

Official Summary:

The bill amends statutes regarding mobile parks, including adding conforming language.

Functional changes include:

- defining new terms for the Mobile Home Park Act and the Mobile Home Park Act Dispute Resolution and Enforcement Program;
- adjusting the conditions under which a tenancy may be terminated;
- adjusting management's duties concerning park maintenance and repair;
- requiring management to provide documentation to tenants regarding water usage and billing;
- prohibiting management from retaliatory actions;
- establishing constraints for how management may add or amend park rules; and
- establishing tenants' right to privacy.

Position: Support

Status: Senate Third Reading Passed - No Amendments

HB20-1201

MOBILE HOME PARK RESIDENTS OPPORTUNITY TO PURCHASE

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1201_enr.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1201_00.pdf

House Sponsors: Reps. E. Hooton; S. Gonzales-Gutierrez

Senate Sponsors: Sens. D. Moreno; J. Ginal

Official Summary:

The bill gives homeowners in a mobile home park, or an association representing a majority of homeowners, the opportunity to make an offer to buy the park if the landlord anticipates selling it or changing the use of the land. Upon receiving an offer, the landlord is required to provide documents in response to reasonable requests for information and to negotiate in good faith.

The bill establishes notification and reporting requirements, timeframes for homeowners to act, and exemptions from these requirements.

Position: Support

Status: House Considered Senate Amendments - Result was to Concur - Repass

HB20-1233

BASIC LIFE FUNCTIONS IN PUBLIC SPACES

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1233_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1233_00.pdf

House Sponsors: Reps. J. Melton; A. Benavidez

Official Summary:

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.

Position: Oppose

Status: House Committee on Transportation & Local Government Postponed Indefinitely (2/26/20)

HB20-1326

CREATE OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1326_enr.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1326_00.pdf

House Sponsors: Reps. S. Bird; K. Van Winkle

Official Summary:

Under current law, people duly licensed in another state can be credentialed in Colorado for most professions and occupations administered by the Division of Professions and Occupations (DPO) in the Department of Regulatory Agencies (DORA), if they meet certain qualifications. These qualifications are included within the statute for each profession and occupation subject to the bill and allow for licensure, certification, registration, or enrollment by endorsement, reciprocity, or transfer. This bill removes the endorsement, reciprocity, or transfer language from each act and centralizes it in the newly created Occupational Credential Portability Program (program). The professions and occupations that will be included in the program are as follows: • acupuncturists; • architects; • athletic trainers; • audiologists; • barbers and cosmetologists; • certified public accountants • chiropractors • dentists and dental hygienists; • electricians; • hearing aid providers; • landscape architects; • massage therapists; • medical doctors; • naturopaths; • nurses including, advanced practice nurses, practical nurses and nurse's aides; • nursing home administrators; • occupational therapists and occupational therapy assistants; • optometrists; • pharmacists; • physical Therapists and Physical Therapy Assistants; • podiatrists; • professional land surveyors and land surveyor-interns; • professional engineers and engineer-interns; • psychiatric technicians; • psychologists, social workers, marriage and family therapists, professional and addiction counselors; • respiratory therapists; • speech language pathologists; and • veterinarians.

Position:

Status: Sent to Governor.

Other Bills of Interest:

HB20-1001

NICOTINE PRODUCT REGULATION

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1001_rer.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1001_r2.pdf

Senate Sponsors: Sens. Jeff Bridges; K. Priola

House Sponsors: Reps. K. Mullica; C. Larson

Official Summary:

The bill provides for statewide licensing and regulation of cigarettes, tobacco products, and nicotine products. The bill raises the minimum age to purchase cigarettes, tobacco products, and nicotine products from 18 years old to 21 years old. It removes the current class 2 petty offense for underage purchase and prohibits a retailer from allowing a person under the age of 18 to sell cigarettes, tobacco products, or nicotine.

Licensing. Beginning July 1, 2021, a retailer is prohibited from selling cigarettes, tobacco, or nicotine products without a state-issued license. Each retail location must be licensed, and licenses are valid for one year and are not transferrable. Retailers that sell such products and have applied for a license before to July 1, 2021 may continue to sell products until the review of their application is complete. The Liquor Enforcement Division (LED) in the Department of Revenue (DOR) must promulgate rules related to licensing and enforcement, including setting fee amounts to cover the cost of the licensing program. Fee revenue is deposited in the LED Cash Fund. The bill sets time frames for approval or denial of a license application, procedures for a hearing if the application is denied, and an expedited application process for retailers that hold a valid local license, and allows LED to establish a process for an owner of multiple locations to apply simultaneously for multiple licenses.

Enforcement. Current law requires that the LED conduct the minimum number of inspections of businesses that sell cigarettes, tobacco, and nicotine products required under federal law. The bill requires that LED conduct, or coordinate with local licensing authorities to conduct, at least two compliance checks at each retail location annually, or the federal minimum, whichever is greater. If a compliance check results in a violation, either LED or the local licensing authority must conduct an additional check within three to six months of the initial compliance check. If a local authority suspends or revokes a license, the LED must suspend or revoke the state license. LED must maintain and post online a list of licensed retailers. Local regulation. The bill prohibits cities and counties from setting a minimum age to purchase cigarettes, tobacco and nicotine products below 21 years old, and states that any local government licensing requirement may be more stringent than state licensing.

License restrictions. Unless approved by a local licensing authority, the LED may not approve a state license for a new retail location that is located within 500 feet of a school. Local licensing authorities may eliminate types of schools from the distance restrictions or adopt shorter distance restrictions. Retailer restrictions. Retailers may not advertise electronic smoking device product in a manner that is visible from outside the retail location. The bill prohibits the shipment of products directly to consumers; the prohibition does not apply to shipments of cigars and pipe tobacco to consumers over 21 years old. Licensed retailers may deliver products to customers who are at least 21 years old, as long as certain conditions are

met. LED must promulgate rules related to delivery, which may include issuing permits allowing retailers to deliver product.

Fines and violations. The bill allows LED to apply for an injunction to prohibit a person from violating state tobacco regulations, and may suspend or revoke a retailer's state license after an investigation and public hearing. The bill establishes a new fine schedule for violations related to selling products to a minor, and a list of civil fines for sale of cigarettes, tobacco, and nicotine products without a state license, or violating advertisement and online sale restrictions. In addition, the bill allows employees of retailers who are between 18 and 21 years old to handle products that are for sale, and specifies that retailers may use an affirmative defense for violations only once, except that a cigar-tobacco bar in a licensed gaming establishment may use it twice within a 24 month period. The bill also removes offenses related to sale of products to under the age of 21 from juvenile courts, and clarifies that appeals of agency decisions may be appealed to district court instead of the court of appeals.

Position: Pursue changes through bill sponsor

Status: Sent to the Governor (6/12/20)

HB20-1002

COLLEGE CREDIT FOR WORK EXPERIENCE

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1002_rer.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1002_r3.pdf

Senate Sponsor: Sen. R. Zenzinger

House Sponsor: Rep. B. McLachlan

Official Summary:

No later than September 1, 2021, the bill requires that the Department of Higher Education, in consultation with institutions of higher education, conduct a study concerning awarding credit for prior learning experiences at state institutions of higher education. The study must examine the processes by which an institution may assess, and a student may receive tuition-free undergraduate credit for prior learning. Under current law, the Colorado Commission on Higher Education convenes a council of representatives from institutions of higher education to recommend policies and procedures for credit transfers between institutions, articulation agreements, common course numbering, and related topics concerning the state's guaranteed transfer framework. No later than January 1, 2022, this bill requires that the Guaranteed Transfer Council (council), in consultation with the Colorado Workforce Development Council, create and implement a statewide plan to assess and align work-related experience and professional certifications or licenses with the knowledge and competencies required for awarding academic credit with guaranteed transfer designation. The bill permits the DHE to accept and spend private donations in order for the council to create, adopt, and implement the statewide plan. The plan shall not be created, adopted, or implemented unless sufficient money is available from gifts, grants, or donations to cover the department's costs. Institutions of higher education must evaluate, accept, and transfer academic credit awarded for work-related experience no later than the 2022-23 academic year. During the 2022 regular legislative session, the DHE must report the council's plan to the General Assembly. Beginning March 1,

2024, and annually thereafter, the council must report to the education committees details concerning the implementation of the statewide plan.

Position:

Status: Sent to the Governor (6/10/20)

HB20-1009

SUPPRESSING COURT RECORDS OF EVICTION PROCEEDINGS

https://leg.colorado.gov/sites/default/files/2020a_1009_signed.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1009_f1.pdf

Senate Sponsor: Sen. F. Winter

House Sponsor: Rep. D. Jackson

Official Summary:

The bill requires a court to suppress records related to eviction proceedings and actions for termination. In addition, the court must not publish the names of any parties online. Upon an order granting the plaintiff possession of the premises, the court will lift the suppression order unless the parties agree that the record should remain suppressed. Summons to defendants must include a notification that the records associated with the proceedings are suppressed until an order grants the plaintiff possession of the premises, and that the record may still remain suppressed if both parties agree.

Position:

Status: Governor Signed (3/20/20)

HB20-1010

COLORADO ACCURATE RESIDENCE FOR REDISTRICTING ACT

https://leg.colorado.gov/sites/default/files/2020a_1010_signed.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1010_f1.pdf

Senate Sponsors: Sen. Gonzales ; K. Donovan

House Sponsors: Reps. K. Tipper; J. Coleman

Official Summary:

The bill requires the Department of Corrections (DOC) to collect and maintain an electronic record of the legal residence, race, and age for all persons entering its custody as soon as practicable after the effective date. By May 1 of a federal decennial census year, the DOC is required to deliver this data to the nonpartisan staff of the General Assembly for use in the redistricting process. When an inmate's legal residence is known, nonpartisan staff is required to reassign that person to the known address instead of using the correctional facility's address. When an inmate's legal residence is unknown or their last known address is outside Colorado, the prisoner is counted at the address of the correctional facility. The bill specifies that data showing the reassignment of inmates are not to be used in the distribution of any state or federal aid.

Position:

Status: Governor Signed (3/20/20)

HB20-1019

PRISON POPULATION REDUCTION AND MANAGEMENT

https://leg.colorado.gov/sites/default/files/2020a_1019_signed.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1019_f1.pdf

Senate Sponsor: Sen. J.Gonzales

House Sponsor: Rep. L. Herod

Official Summary:

This bill makes the changes to the way the state manages the prison population, as detailed below. Utilization of Centennial Correctional Facility–South. This bill allows the Department of Corrections (DOC) to use up to 650 beds at the south campus of Centennial Correctional Facility (Centennial South) to house close custody inmates. The DOC may also house inmates who are not close custody on the campus for a period of up to three months after the bill's effective date in order to facilitate the movement of inmates displaced as a result of prison closure or where the lower than close custody inmate is voluntary serving in a leadership role as part of departmental programming with the purpose of progressing close custody inmates to lower security levels. The bill also repeals the law that allows the DOC to use Centennial South when the state's vacant male bed rate falls below 1 percent for two consecutive months, which was set to repeal on September 1, 2020. Study and advisory committee on future prison bed needs in Colorado. This bill requires the Department of Local Affairs (DOLA) to contract with a nationally recognized research and consulting entity to study future prison bed needs in Colorado. DOLA's executive director must select and convene an advisory group consisting of three local government representatives from Bent and Crowley counties, at least two of whom must be county commissioners, to consult with the entity during the study. The study must include evidence-based strategies to safely reduce the prison population; an analysis of the economic and other impacts of private prison closure and recommendations on strategies to diversify the local economy; a utilization analysis of all facilities that can be used to house inmates; a program analysis with modifications or expansions that may be necessary to align with best practices or keep pace with demand; an analysis of the best practices and programs that are necessary for successful reintegration, alternatives to incarceration, and recidivism reduction strategies; and an analysis of the feasibility of the DOC obtaining privately owned facilities or utilizing unused state-owned buildings. Prior to completing the study, DOLA, in conjunction with county commissioners, must provide notices and conduct public hearings in the counties where private prisons are located to allow public testimony, which DOLA must include in the final report. DOLA must provide the study to the Judiciary Committees of the General Assembly during the 2021 session SMART Act hearings. Sentencing hearings after terminations from a Community Corrections program. This bill requires sentencing courts to provide offenders with a new sentencing hearing after being terminated from a community corrections program. Unauthorized absence. The bill creates a new crime of an unauthorized absence for a person on intensive supervision parole, in a community corrections program, or participating in a work release program and outlines different criminal offenses depending on

prior conviction. Absence or attempted absence where the crime was violent or was a serious crime against a person is a class 6 felony. Where the crime does not meet these criteria, absence or attempted absence is charged as a class 3 misdemeanor. For any unauthorized absence where a violation of a permanent or temporary protection order is committed, the charge is a class 3 felony. The bill also makes conforming amendments to the victim rights act related to this new crime.

Incarceration of inmates from other states. The bill requires the DOC to develop criteria on accepting out-of-state inmates into Colorado private prisons. If placement procedures or established criteria are violated, the executive director of the DOC may rescind contract approval with a private prison with at least 60 days notice to the contracting parties of the rescission. Treatment options in parole revocation proceedings. Under current law, the Parole Board is required to consider placing a parolee in various programs for substance abuse or mental health treatment if it is determined that the parolee is in need of, and amenable to, treatment. Programs include outpatient programs, residential treatment programs under the Department of Public Safety, or parolee intensive treatment programs under DOC. This bill removes "and is amenable to treatment" from this section of statute.

Earned time. Under current law, earned time can be deducted from the prison or parole sentence of an inmate that makes progress in several areas including training, counseling, good behavior, and educational programs. This bill removes the requirement that earned time be awarded in accordance with these statutory categories, and allows earned time to be awarded when there is positive progress in accordance with performance standards established by the DOC. The current maximum of 10 days of earned time per month is unchanged.

Comparable Crime Analysis

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 an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Prior conviction data. This bill creates the new offense of unauthorized absence from intensive supervised parole, community corrections, or a work release program, and removes this category of offender from the current offenses of escape and attempted escape. Unauthorized absence or attempt where the prior conviction was violent or was a serious crime against a person is a class 6 felony. For all other prior convictions, unauthorized absence or attempt is a class 3 misdemeanor. For an unauthorized absence where the offender also commits a violation of a permanent or temporary protection order, the charge is a class 3 felony. Currently, persons who commit unauthorized absences are charged under the escape statute. Under current law, an offender in custody or confinement can be charged with a class 2 or 3 felony for escape or a class 4 or 6 felony for attempted escape; the felony level depends on the offender's prior conviction level.

- **Escape.** During the last three years, 1,096 offenders have been convicted and sentenced for escape. Of the persons sentenced, 867 were male, 229 were female. Demographically, 898 were White, 100 were Black/African American, 66 were Hispanic, 13 were American Indian, 10 were Asian, and 9 were classified as "Other." The

circumstance of these escapes and the original crime for which the offender was charged or convicted is not known.

- Attempted escape. During the last three years, 1,909 offenders have been convicted and sentenced for attempted escape. Of the persons sentenced, 1,500 were male, 409 were female. Demographically, 1,508 were White, 317 were Black/African American, 52 were Hispanic, 13 were American Indian, 13 were classified as "Other," 5 were Asian, and 1 did not have a race identified.

Position:

Status: Signed by Governor (3/6/20)

Notes: The bill is the result of a prison interim study committee that met last summer.

HB20-1020

LONG-TERM LODGING SALES TAX EXEMPTION

https://leg.colorado.gov/sites/default/files/2020a_1020_signed.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1020_r1.pdf

Senate Sponsors: Sens. D. Moreno; L. Court

House Sponsors: Reps. M. Snyder; A. Benavidez

Official Summary:

Beginning on January 1, 2021, this bill limits the state sales tax exemption on long-term lodging to natural persons. Long-term lodging includes stays of 30 days or more at hotels, apartment hotels, lodging houses, motor hotels, guesthouses, guest ranches, trailer coaches, mobile homes, auto camps, or trailer courts and parks. The bill also continues the application of the sales tax exemption to local governments unless they choose to explicitly subject long-term lodging to their local sales and use tax rates.

Position:

Status: Signed by Governor (3/20/20)

HB20-1121

RETALIATION AGAINST AN ELECTED OFFICIAL

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1121_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1121_00.pdf

House Sponsor: Reps. K. Mullica; M. Soper

Official Summary:

This bill adds elected officials and their families to the existing class 4 felony 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. Elected official is defined to mean any person who is serving in an elected position in the state of Colorado at any level of government.

Position:

Status: House Committee on Judiciary Postponed Indefinitely (1/30/20)

HB20-1164**HOUSING AUTHORITY EXEMPTIONS FROM WATER FEES**

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1164_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1164_00.pdf

House Sponsors: Reps. Rich; K. Becker

Senate Sponsor: Sen. R. Zenzinger

Official Summary:

Under current law, property owned by any governmental agency within a water conservancy district is exempt from tax assessments and levies imposed by the conservancy district. This bill also exempts property owned by a housing authority within a water conservancy district from any tap fee or development impact fee imposed by a water conservancy district.

Position: Oppose

Status: House Second Reading Laid Over to 12/31/2020 - No Amendments

HB20-1215**SUNSET WATER WASTEWATER FACILITY OPERATORS CERT BD**

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1215_re.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1215_00.pdf

House Sponsors: Reps. Valdez A.; M. Froelich

Official Summary:

This bill implements the recommendations of the sunset review of the Water and Wastewater Facility Operators Certification Board in the Department of Public Health and Environment (CDPHE). The recommendations include continuing the board through September 1, 2031. The board is currently scheduled to repeal on September 1, 2020. Other recommendations include:

- excluding on-site wastewater treatment systems with a design capacity of 2,000 gallons or less per day, from the definition of domestic wastewater treatment facility, unless the system discharges directly to surface water;
- repealing the exclusion of facilities designed to operate for less than one year or facilities with in-situ discharge from the definition of industrial wastewater treatment facility; and
- creating the Water and Wastewater Facility Operators Fund and diverting \$5.00 per certification from the General Fund to the new cash fund.

Position: Pursue changes through bill sponsor

Status: Sent to Governor

HB20-1282**RADIO COMMUNICATIONS POLICIES OF GOVERNMENT ENTITIES**

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1282_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1282_f1.pdf

House Sponsors: Reps. K. Van Winkle; J. Melton

Official Summary:

This bill requires each city, county, and city and county in Colorado that encrypts radio communications to enact an encryption policy that considers and may include provisions concerning: • providing media members with unencrypted access, which may require an access approval process; and • including standards to prevent the government entity from imposing unreasonable obstacles to gain access to radio communications. During development of the policy, the governmental entity must: • consider providing unencrypted access to the public through alternative means; • seek input from members of Colorado media; and • establish a process for receiving feedback from other organizations and the public, via electronic means and through at least one public meeting. A governmental entity that encrypts its radio communications on or before December 31, 2020, must enact an encryption policy pursuant to this section on or before January 1, 2021. A governmental entity that encrypts its radio communications on or after January 1, 2021, must enact an encryption policy pursuant to this section prior to encrypting its radio communications.

Position: Oppose

Status: House Committee on Transportation & Local Government Postponed Indefinitely (3/4/20)

HB20-1293

EMERGENCY TELEPHONE SERVICE CHARGES

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1293_rer.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1293_r1.pdf

House Sponsors: Reps. J.McCluskie; R. Pelton

Senate Sponsors: Sens. D.Coram; J. Gonzales

Official Summary:

The bill makes several changes related to 911 surcharges and funding. These changes are discussed below.

Local 911 emergency telephone charge. Under current law, a local 911 governing body may assess an emergency telephone charge on a user within its jurisdiction to cover the costs of 911 service. The charge is capped at \$0.70 per month. The bill eliminates this cap. By January 1, 2021, the bill requires the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to annually determine the cap. Local 911 governing bodies may obtain approval from the PUC to impose a higher charge. Local 911 governing bodies must comply with annual reporting requirements. The bill also amends the procedures for the collection and remittance of local emergency telephone charges, and allows local 911 governing bodies to impose penalties on service providers.

911 surcharge. Beginning on January 1, 2021, the bill creates a new 911 surcharge. By October 1, 2020, and every October 1 thereafter, the bill requires the PUC to determine the rate for the surcharge, which may not exceed \$0.50 per month. The rate must be reasonably calculated to meet the needs of governing bodies to operate the 911 system. 911 service suppliers will collect the surcharge and remit them to the PUC for deposit in the new 911 Surcharge Trust Cash Fund. Service suppliers may retain one percent of the surcharge collected and the PUC may retain up to four percent for administrative costs. The PUC may

adopt rules related to the remittance of the surcharge. The PUC may also conduct audits of service suppliers. Any penalties collected by the PUC is deposited in the 911 Surcharge Trust Cash Fund and distributed to local governments.

Prepaid 911 wireless surcharge. Currently, persons who purchase a prepaid wireless phone pay a surcharge for 911 service of 1.4 percent of the price of the phone. The bill repeals the fee set in statute and requires the PUC to establish the amount of the prepaid wireless 911 charge based on the average amount of local emergency telephone charges and the 911 surcharge.

Multi-line telephone systems reporting. The bill requires the PUC to create a mechanism for public reporting of violations of the bill. The PUC must forward its violation reports to any appropriate federal authorities.

Position: Support

Status: Sent to Governor

HB20-1415

WHISTLEBLOWER PROTECTION PUBLIC HEALTH EMERGENCIES

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1415_rer.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1415_r1.pdf

House Sponsors: Reps. L. Herod; T. Sullivan

Senate Sponsors: Sens. B.Pettersen; R. Rodriguez

Official Summary:

The bill prohibits a principal, including an employer, certain labor contractors, public employers, and entities that rely on independent contractors for a specified percentage of their workforce, from discriminating, retaliating, or taking adverse action against any worker who:

- raises concerns about workplace health and safety practices or hazards related to a public health emergency to the principal, the principal's agent, other workers, a government agency, or the public if the workplace health and safety practices fail to meet guidelines established by a federal, state, or local public health agency with jurisdiction over the workplace; or
- voluntarily wears personal protective equipment, such as a mask, faceguard, or gloves, in their workplace. A worker may seek relief for a violation of the bill by:
 - filing a complaint with the Division of Labor Standards and Statistics in the Department of Labor and Employment (CDLE);
 - bringing an action in district court, after exhausting administrative remedies; or
 - bringing a whistleblower action in the name of the state in district court, after exhausting administrative remedies through alternative means;
 - seek input from members of Colorado media; and
 - establish a process for receiving feedback from other organizations and the public, via electronic means and through at least one public meeting.

A governmental entity that encrypts its radio communications on or before December 31, 2020, must enact an encryption policy pursuant to this section on or before January 1, 2021. A governmental entity that encrypts its radio communications on or after January 1, 2021, must enact an encryption policy pursuant to this section prior to encrypting its radio communications.

Position:

Status: Sent to Governor

HB20-1035

PROGRAMS TO DEVELOP HOUSING SUPPORT SERVICES

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_1035_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_hb1035_r1.pdf

House Sponsor: Rep. J. Singer

Senate Sponsor: Sen. R. Fields

Official Summary:

This bill establishes two new grant programs and expands existing duties within the Division of Housing in the Department of Local Affairs (DOLA) to build capacity of Colorado communities to provide supportive housing services to individuals with behavioral health disorders and who have been involved in the criminal or juvenile justice systems who are homeless or at risk of becoming homeless.

Pre-development grant program. This bill creates a pre-development grant program to provide funding to entities that develop supportive housing interventions. DOLA must award grants from the Housing Assistance for Persons Transitioning from the Criminal or Juvenile Justice System Cash Fund by January 1, 2021, and on January 1 of the following two years. Grant recipients may use the funds to add new staff capacity allowing the development and implementation of services. DOLA is required to provide technical assistance to grant recipients. This grant program is repealed on September 1, 2024.

Supportive housing services and homelessness prevention grant program. This bill creates a supportive housing grant program to provide funds for homelessness prevention projects and to cover the costs of providing supportive housing services that are not currently eligible for reimbursement under Medicaid. DOLA must award grants by January 1, 2022, and by January 1 of the following two years. The Department of Health Care Policy and Financing (HCPF) is required to collaborate to identify additional providers and services that may be eligible for reimbursement under Medicaid and to request waivers allowing for such reimbursement. DOLA is required to provide technical assistance to grant recipients. This grant program is repealed on September 1, 2027.

Training and technical assistance for supportive housing. Beginning on or before January 1, 2021, DOLA is required to expand statewide training and technical assistance to communities that develop supportive housing interventions for persons with behavioral or mental health disorders. The program must provide training and education and target communities that experience barriers when accessing state and federal funds, use relevant data systems, and develop, implement, and evaluate supportive housing services. By August 1, 2021, and every August 1 thereafter, DOLA must submit a report to the Oversight Committee.

Homelessness data integration and resource collection. This bill requires DOLA to develop a plan to increase participation in regional homeless data systems, support accurate data reporting, and assess housing-related needs. The program must evaluate how to increase use of the Colorado Homeless Management Information System and the Coordinated Entry System

in consultation with Continuums of Care, provide technical assistance, and develop an integrated user interface for data systems with input from key stakeholders.

Position: Monitor

Status: House Committee on Transportation & Local Government Refer Amended to Appropriations - Died on calendar

TO: MAYOR COFFMAN AND CITY COUNCIL

FROM: CAPITOL CAPITAL PARTNERS

SUBJECT: CITY OF AURORA END OF SESSION REPORT 2020: SENATE

DATE: JUNE 17, 2020

SB20-026

WORKERS' COMPENSATION FOR AUDIBLE PSYCHOLOGICAL TRAUMA

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_026_enr.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb026_r2.pdf

Prime Sponsors:

Sens. Fields; Cooke

Rep. Singer

Official Summary:

Under certain circumstances, current law allows workers who visually witness psychologically traumatic events to qualify for workers' compensation benefits. This bill expands the definition to include audible exposure to a death or serious bodily injury. Qualified claimants must be diagnosed with Post-Traumatic Stress Disorder (PTSD) by a licensed psychiatrist or psychologist.

Position: Pursue changes through bill sponsor

Status: Sent to the Governor (6/15/20)

SB20-065

LIMIT MOBILE ELECTRONIC DEVICES WHILE DRIVING

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_065_ren.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb065_00.pdf

Prime Sponsors:

Sen. Hansen

Rep. Roberts

Official Summary:

Under current law, drivers under the age of 18 are prohibited from using a mobile electronic device while driving, while drivers over 18 are prohibited from texting and driving. This bill prohibits the use of a mobile electronic device while driving for all drivers unless the driver is

contacting a public safety entity, there is an emergency, or the driver is using a hands-free accessory and over the age of 18.

Position: Pursue changes through bill sponsor

Status: House Committee on Transportation & Local Government Postpone Indefinitely (5/27/20)

SB20-093

CONSUMER AND EMPLOYEE DISPUTE RESOLUTION FAIRNESS

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_093_ren.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb093_00.pdf

Prime Sponsors:

Sens. Foote; Fenberg

Rep. Jackson

Official Summary:

This bill creates the Consumer and Employee Arbitration Fairness Act, which establishes ethical standards for arbitrators, disclosure and protection of information requirements, and the damages and appeals processes.

Position: Pursue Changes through bill sponsor

Status: House Committee on Finance Postpone Indefinitely (6/3/20)

SB20-093

CONSUMER AND EMPLOYEE DISPUTE RESOLUTION FAIRNESS

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_093_ren.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb093_00.pdf

Prime Sponsors:

Sens. Foote; Fenberg

Rep. Jackson

Official Summary:

This bill creates the Consumer and Employee Arbitration Fairness Act, which establishes ethical standards for arbitrators, disclosure and protection of information requirements, and the damages and appeals processes.

Position: Oppose

Status: House Committee on Finance Postpone Indefinitely (6/3/20)

SB20-138

CONSUMER PROTECTION CONSTRUCTION DEFECT TIME PERIOD

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_138_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb138_00.pdf

Prime Sponsor:

Sen. Rodriguez

Official Summary:

The bill increases the statutory limitation period for actions based on construction defects from six years to ten years. It also allows a pause of the limitation period on any statutory or equitable basis and requires a pause until the claimant discovers not only the construction defect, but also its cause.

Position:

Status: Senate Second Reading Laid Over to 12/31/2020 (5/28/20)

SB20-151

ADMINISTRATION OF THE REGIONAL TRANSPORTATION DISTRICT

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_151_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb151_r1.pdf

Prime Sponsors:

Sens. Tate; Rodriguez

Reps. Jackson; Larson

Official Summary:

The bill makes several statutory changes to the Regional Transportation District (RTD) and creates three advisory committees. These changes are discussed below. Service decisions. The bill lists several metrics, such as a change's impact on ridership numbers and the equitable distribution of resources, that RTD must consider when making decisions regarding service levels, route planning, and rates. **Discrimination policies.** The bill prohibits RTD from discriminating against persons with disabilities directly or through contractual, licensing, or other arrangement. The bill prohibits several actions, such as RTD requiring an individual with a disability to use designated priority area or excluding paratransit fares from a discount fare program. In addition, the bill prohibits RTD from discriminating on the basis of race, color,

ethnicity, or national origin in providing services directly or through contractual, licensing, or other arrangement. The bill allows persons experiencing discrimination to bring a civil suit against RTD in district court on or after January 1, 2022. These claims are not subject to the Colorado Governmental Immunity Act, but are subject to damage limits included in the bill. The bill also creates a statutory fine of \$3,500 for violations. On or before January 1, 2021, RTD must submit a report to the Transportation Legislation Review Committee (TLRC) outlining how it will comply with the bill's discrimination requirements. Nondiscrimination compliance oversight. The bill requires RTD to comply with requests for information, reports, or documents from the TLRC regarding its compliance with the nondiscrimination policies in the bill. The TLRC is required to hold public testimony after July 1, but before September 30, of each year concerning RTD's compliance. This requirement is repealed on October 1, 2025. **Americans with Disabilities Act Advisory Council.** The bill creates the Americans with Disabilities Act Advisory Council (ADA council) to the Senate Judiciary Committee. The seven-member ADA council consists of one legislator and six nonlegislators appointed as specified in the bill. The council must meet at least twice per month between August 2020 and January 2021. The legislative member is entitled to per diem and travel expenses. Nonlegislative members of the ADA council are entitled to a \$400 stipend per month and travel expenses. The ADA council must submit a report by October 31, 2020, to the House and Senate Judiciary Committees, as well as the Executive Committee of Legislative Council, with any recommendations and findings. On or before November 30, 2020, RTD must provide a response to the ADA council's report, including providing information on which recommendations the district plans to adopt or not adopt. On or before January 31, 2020, the ADA council must present a final report to the Senate Judiciary Committee. The ADA council is repealed on September 1, 2021. **RTD Blue Ribbon Panel.** The bill creates the RTD Blue Ribbon Panel (panel) in the Department of Transportation (CDOT). The panel is charged with performing an in-depth review of RTD. The six-member panel consists of members appointed as specified in the bill. Panel members are not entitled to compensation, but are entitled to actual expenses. The panel must conduct interviews with RTD board members, staff, and stakeholders, as well as conduct site visits as necessary. On or before September 1, 2020, the panel must submit a report including findings and recommendations to the Governor, the House and Senate Transportation Committees, RTD, and the local governments within the district. RTD may not hire a permanent general manager until the report is completed. CDOT will provide panel staff and the General Assembly must appropriate money from the General Fund to cover the costs associated with the panel. The panel is repealed on October 1, 2021. **RTD Accountability Committee.** The bill creates the RTD Accountability Committee (committee) in CDOT. The committee is charged with performing a comprehensive review of RTD over several years. The seven-member committee consists of members appointed as specified in the bill. Each committee member is entitled to a

stipend of \$1,000 per month. The committee must issue a report with any findings and recommendations by January 1, 2021, and every six months thereafter through July 1, 2023. Reports are submitted to the Governor, the House and Senate Transportation Committees, RTD, and the local governments within the district. Within 30 days after the committee issues a report, RTD must submit a written response including information on which recommendations the district plans to adopt or not adopt. The committee may contract with a public or private entity with expertise in transit agency finance and operations to support its work. CDOT will provide panel staff and the General Assembly must appropriate money from the General Fund to cover the costs associated with the panel. The committee must issue a final report on or before July 1, 2023, and the committee repeals on September 1, 2023. **Board of Directors membership.** The bill adds two nonvoting appointed members to the RTD board. The Governor must appoint two nonvoting board members, with one member representing constituents with disabilities who are transit-dependent, and one member with experience or interest in equitable transportation planning. The bill also clarifies that candidates for the board are subject to campaign contribution limits. Board administration. The bill requires that the RTD board meet monthly and to broadcast live when possible. In addition, the board must post audio recordings of its meetings on its website. The bill clarifies that board members must be present to vote and that the board may adopt procedures to allow members to vote via remote testimony in cases of a documented medical condition. The board must also adopt guidelines to reduce the compensation of board member that fails to attend meetings or perform official duties. The board must hold public meetings on its plans and policies related to the ADA and Title VI of the federal Civil Rights Act of 1964. Any permanent or temporary reduction of service, including paratransit, requires approval of the board, with the board holding separate votes on whether to eliminate or reduce paratransit service. Audit requirements. The bill requires the Office of the State Auditor (OSA) to perform three audits. These audits include: • by January 1, 2021, an audit of the fiscal health of the RTD salaried employees' pension plan; • by January 1, 2021, an audit of RTD's organizational structure; and • by January 1, 2022, a cost-efficiency performance audit of RTD. The OSA is required to submit a written report on each audit to the Legislative Audit Committee, including recommendations to improve the fiscal health of RTD. Upon approval by the Legislative Audit Committee, the OSA will also submit a copy of the reports to the TLRC. **Transparency measures.** On or before October 1, 2020, RTD must post on its website by the first of each month an online check register. RTD must ensure that the register contain only public information. Whistle-blower protections. The bill provides whistle-blower protections to RTD employees and entities contracting with RTD, and includes RTD within the protections the OSA's fraud hotline. The bill clarifies that RTD board members and employees are subject to certain ethics requirements. **Retail and commercial services.** Under current law, RTD may not provide retail and commercial services at its facilities. This bill allows RTD to

provide retail and commercial services at its facilities. RTD must consult with CDOT before offering these services on CDOT-owned property. Farebox revenue and parking fees. Under current law, RTD must ensure that 30 percent of its operating costs are funding through fares. The bill eliminates this requirement. In addition, the current law limits when RTD may charge in parking fees. The bill eliminates these limitations.

Position: Oppose

Status: Senate Committee on Judiciary Postpone Indefinitely (5/26/20)

SB20-205

SICK LEAVE FOR EMPLOYEES

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_205_rer.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb205_r1.pdf

Prime Sponsors:

Sens. Fenberg; Bridges

Reps. Becker; Caraveo

Official Summary:

The bill creates the Healthy Families and Workplace Act and requires that all employers in Colorado provide paid sick leave to each employee. Beginning January 1, 2021, all employers in Colorado must provide one hour of paid sick leave for every 30 hours worked, up to a maximum of 48 hours per year. Employees begin accruing paid sick leave when employment begins, or may receive all hours up front, and may use that leave as it is accrued. Employees are permitted to carry accrued sick leave forward to use in the future, but the employer is not required to allow employees to accrue or take more than 48 hours in a 12-month period. An employee may use paid sick leave in hourly increments. The employee must make a good faith effort to provide notice of any paid sick leave. Employers may request documentation for absences longer than four consecutive days.

Position:

Status: Sent to Governor (6/15/20)

SB20-207

UNEMPLOYMENT INSURANCE

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_207_rer.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb207_r1.pdf

Prime Sponsors:

Sens. Hansen; Winter

Official Summary:

This bill amends the Colorado Employment Security Act to:

- increase the amount of wages someone can earn before their weekly unemployment insurance (UI) benefit is reduced until September 1, 2022;
- exclude payments made to an election judge from the definition of wages;
- direct the Division of Unemployment Insurance (division) in the Department of Labor and Employment (CDLE) to consider whether the individual has separated from employment or refused to accept new employment due to factors related to a public health emergency;
- modify the terms of work share plans to match federal rules;
- reduce the time for interested parties to respond to a notice of claim from 12 to 7 calendar days; and
- remove the cap on funds deposited into and retained in the Employment Support Fund. The Office of Future of Work in the CDLE is required to study unemployment assistance as part of its study on the modernization of worker benefits and protections. The office will submit an initial report to the Governor and the General Assembly by January 15, 2021.

Position:

Status: Sent to Governor Desk

SB20-216

WORKERS' COMPENSATION FOR COVID-19

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_216_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb216_00.pdf

Prime Sponsors:

Sen. Rodriguez

Rep. Mullica

Official Summary:

The bill provides that, for purposes of the Workers Compensation Act of Colorado, essential workers who work outside of the home and contract COVID-19 are presumed to have contracted the illness in the course of their employment. Additionally, the illness is to be considered a compensable accident, injury, or occupational disease. This presumption may be overcome by clear and convincing evidence that the essential workers' contraction did not occur through the course of their employment. Essential workers include: • first responders; • correctional officers; • medical, healthcare, and public health workers; • home health care workers; • commercial cleaning workers; • nursing home workers; • utility workers and in-home service technicians; • construction or maintenance workers at facilities treating COVID-19 patients; • workers at residential care or residential living facilities treating COVID-19 patients; •

food processing and agricultural workers; • grocery store workers; • mass transit drivers or operators; and • airline employees.

The bill applies to workers' compensation claims for disabilities arising on or after the effective date of this bill. The bill is repealed June 21, 2022.

Position: Pursue changes through bill sponsors

Status: Senate Committee on Appropriations Postpone Indefinitely (6/10/20)

SB20-217

ENHANCE LAW ENFORCEMENT INTEGRITY

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_217_rer.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb217_r4.pdf

Prime Sponsors:

Sens. Garcia; Fields

Reps. Herod; Gonzales-Gutierrez

Official Summary:

This bill requires local law enforcement and the Colorado State Patrol to use body-worn cameras and release recordings to the public, and to conduct data reporting about certain incidents and contacts with the public. The Division of Criminal Justice must post this reporting on its website and summarize it in an annual report. The POST Board must revoke peace officer certification for certain violations. State and local law enforcement are prohibited from certain enforcement actions in response to public demonstrations. The bill removes immunity for local law enforcement peace officers and requires those agencies to indemnify officers acting in good faith. The bill limits the acceptable use of force by all peace officers and creates a duty to report excessive use of force. The Attorney General may intervene in instance where a government authority engages in a pattern or practice that deprives persons of their constitutional rights. Finally, the bill declares that the issues addressed within are a matter of statewide concern. The bill will increase state and local expenditures on an ongoing basis beginning in FY 2020-21.

Position: Support

Status: Sent to Governor (6/13/20)

SB20-010

REPEAL BAN ON LOCAL GOVERNMENT REGULATION OF PLASTICS

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_010_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb010_f1.pdf

Prime Sponsors:

Sen. Donovan

Reps. Froelich; Valdez A.

Official Summary:

Under current law, a local government may not require or prohibit the use or sale of specific types of plastic materials or products, or restrict or mandate containers, packaging, or labeling for any consumer product. This bill would have removed this restriction.

Position:

Status: Senate Committee on Local Government Postpone Indefinitely (2/4/20)

SB20-092

ROBOTIC DEVICE DELIVER CARGO

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/2020a_092_01.pdf

Fiscal Note:

https://leg.colorado.gov/sites/default/files/documents/2020A/bills/fn/2020a_sb092_f1.pdf

Prime Sponsor:

Sen. Bridges

Official Summary:

The bill regulates the use of mobile carrying devices and personal delivery devices (robotic devices). A mobile carrying device is defined as a self-propelled robot that transports cargo within a pedestrian area while remaining within 25 feet of a human operator. A personal delivery device is a self-propelled robot that transports cargo within a pedestrian area, or on a highway, with the remote support and supervision of a human. These devices are not considered vehicles for purposes of the traffic code.

The bill establishes the following regulations:

- a mobile carrying device may be used to deliver cargo in a pedestrian area, and a personal delivery device may be used in a pedestrian area or on a highway;
- a business is considered the operator of a robotic device for compliance with traffic laws; unless an agent of the business is acting outside the scope of their position, then the agent is considered the operator;
- a person is not considered the operator of a robotic device because the person requests the delivery or dispatches the device;
- to use a robotic device in a pedestrian area: it must comply with pedestrian traffic laws and local regulations; yield to or not obstruct the right-of-way of other traffic; may not transport hazardous materials; and be monitored and controlled by a person;

- a personal delivery device must be: equipped with an adequate braking system; the name and contact information of the owner and a unique identification number; and adequate lights (if operated at night) to be used in a pedestrian area or on a highway;
- a robotic device may not go faster than 12 miles per hour in a residential area, or 20 miles per hour on a highway; and
- a person must maintain an insurance policy of at least \$100,000 to operate a robotic device in either a pedestrian area or on a highway. Under the bill, a local authority may regulate robotic devices; however, local regulations may not conflict with this bill, limit the hours or zones of operation, or substantially prohibit the use of robotic devices.

Position: Pursue changes through bill sponsor

Status: Senate Committee on Business, Labor, & Technology Postpone Indefinitely (2/26/20)

MEMORANDUM

TO: MAYOR COFFMAN AND CITY COUNCIL

FROM: LUKE PALMISANO: INTERGOVERNMENTAL RELATIONS MANAGER

SUBJECT: STATE LEGISLATIVE UPDATE

DATE: JUNE 17, 2020

Items on which FSIR took Action

Modify Pension Plans Administered By FPPA Fire And Police Pension Association: HB20-1044

The bill modified various plans administered by the Fire and Police Pension Association (FPPA) to increase employee and employer contributions. Governor Polis signed the bill into law on April 1, 2020.

City Staff recommended an active oppose position.

As an unfunded mandate, staff recommended an oppose position as the proposed legislation would increase the employer contribution rate to the Statewide Defined Benefit Plan by 5% over 10 years and would allow the Fire and Police Pension Association Board to require future increases without legislative approval. In addition, the city believed the 1% increase for a new early retirement benefit allowing members to retire at 50 years of age with 30 years of service should be funded by employees. This bill could increase costs by \$1.7M over 10 years and have major fiscal impacts to other department and municipal priorities.

FSIR Position: Refer to full Council

Full Council Position: Active Oppose

Employee Protection lawful Off-Duty Activities: HB20-1089

The bill prohibited 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 House Business Affairs and Labor Committee postponed this bill indefinitely on February 19, 2020.

City Staff recommended an active oppose position.

Staff recommended an oppose position because this bill interfered with the City's ability to set the terms and conditions of employment. It was aimed at the off-duty use of marijuana, but the language was broad enough to cover any off-duty conduct that is illegal under federal law with no equivalent state prohibition. This would have directly affected 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.

FSIR Position: Active Oppose

Battery-charged Electric Fences: HB20-1129

The bill defined 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 House Transportation and Local Government Committee postponed this bill indefinitely on March 3, 2020.

City Staff recommended an active oppose position.

Staff recommended an oppose position because the City prohibits all electrically charged fences, section 146-4.7.9(1). This bill would have violated home rule authority by requiring the City to permit battery charged (electrically charged) fences. It also prohibited fees for inspections related to the electric charged fence.

FSIR Position: Active Oppose

Public Real Property Index: HB20-1138

The bill required 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. This bill passed the House Committee on Transportation and Local Government on February 19, 2020 but was laid over by the House Appropriations Committee on June 16, 2020.

City Staff recommended an active oppose position.

Staff recommended an oppose position as this bill would have placed a significant financial burden on the city.

FSIR Position: Active Oppose

16-year-olds Voting in School District Elections: HB20-1149

This bill would allow participation in school district elections by individuals at least sixteen years of age. This bill passed the House Committee on State, Veterans, & Military Affairs on March 3, 2020 but was laid over by the House Appropriations Committee on June 16, 2020.

City Staff recommended an active support position.

Councilmember Lawson had planned to move forward a resolution in support of this bill.

FSIR Position: Active Support

Expand Authority for Regional Transportation Improvements: HB20-1151

The bill authorizes a transportation planning authority to exercise the powers of a regional transportation authority. This bill passed the House Committee on Transportation and Local Government on March 11, 2020 but was laid over by the House Appropriations Committee on June 16, 2020.

City Staff recommended an active support position.

Staff recommended a support position as this bill would have aided in funding municipal transportation improvements.

FSIR Position: Active Support

Worker's Compensation: HB20-1154

This bill proposed changes to the Workers' Compensation Act of Colorado. This bill passed the House Committee on Business Affairs and Labor on February 12, 2020 but was laid over by the House Appropriations Committee on June 16, 2020.

City Staff recommended a position of pursue changes through bill sponsor.

Staff recommended an oppose position as this bill would have increased the City's overall cost for workers' compensation cases and increased eligibility of injured workers to receive a higher indemnity award.

FSIR Position: Pursue Changes Through Bill Sponsor

Housing Authority Exemptions from Water Fees: HB20-1164

This bill revised the Water Conservancy Act set forth in C.R.S. §37-45-101, *et seq*, to exempt all property owned by a housing authority within a water conservancy district from tap fees and development impact fees imposed by a water conservancy district. The bill was laid over until December 21, 2020 by the House Committee of the Whole on May 28, 2020.

City Staff recommended an active oppose position.

Presently under §37-45-130, property owned by any governmental agency within a water conservancy district would have been exempt from tax assessments and levies imposed by water conservancy district. This bill would have amended this provision to further reduce the fee revenue of water conservancy districts and reduce the fees imposed on housing authorities.

- The proponents of the bill stated the intent to further expand this exemption for housing authorities in the future to apply to tap fees and development impact fees imposed by other governmental agencies including municipalities.
- The Utility Enterprise of City of Aurora would have been prohibited from providing service free of charge under its Water System General Revenue Bond Ordinance. Any change to the Utility Enterprise's borrowing capacity would have resulted in higher long-term costs, resulting in higher rates and fees for Aurora Water customers.
- If any development, housing authority or other property was exempt from paying water fees, Aurora Water rate payers would have been required to shoulder the burden of the costs incurred by the exempted properties.
- Any trend that may in the future reduce or prohibit the ability of the Utility Enterprise to charge for service should be opposed.

FSIR Position: Active Oppose

Mobile Home Park Act Updates: HB20-1196

This bill concerned updates to laws governing mobile home parks including eviction, tenancy, and rental agreements. This bill passed the Senate Committee of the Whole on Friday, June 5, 2020. This bill moves to the governor for his signature or veto.

City Staff recommended an active support position.

The Aurora Mobile Home Task Force met fifteen times over 2018-2019 and outlined key findings and recommendations including creating city policies and defining best practices that support and protect mobile home parks and mobile home residents in the city of Aurora. Support for this bill aligned with task force recommendations.

FSIR Position: Active Support

Mobile Home Park residents Opportunity to Purchase: HB20-1201

This bill concerned providing home owners in a mobile home park the opportunity to purchase the park under specified circumstances. An amended version of this bill passed the House Committee of the Whole on June 3, 2020. This bill moves to the governor for his signature or veto.

City Staff recommended an active support position.

The Aurora Mobile Home Task Force met fifteen times over 2018-2019 and outlined key findings and recommendations including creating city policies and defining best practices that support and protect mobile home parks and mobile home residents in the city of Aurora. Support for this bill aligned with task force recommendations.

FSIR Position: Active Support

Sunset Water Wastewater Facility Operators Certification Board: HB20-1215

This bill concerned the continuation of the water and wastewater facility operators certification board, and, in connection therewith, implementing the recommendations contained in the 2019 sunset report by the department of regulatory agencies. An amended version of this bill passed the House Committee of the Whole on June 10, 2020. This bill moves to the governor for his signature or veto.

City Staff recommended an active oppose position.

Staff recommended an oppose position as changes in language may negatively impact Aurora Water because they have many projects that last shorter than one year and would require extra certifications, time, and costs for these short-term efforts, such as construction dewatering projects.

FSIR Position: Active Oppose

Basic Life Functions in Public Spaces: HB20-1233

The bill would have prohibited the city from restricting any person from conducting basic life functions in a public space unless the government entity can offer alternative adequate shelter to the person and the person denies the alternative adequate shelter; and from occupying a motor vehicle, provided that the motor vehicle is legally parked on public property or parked on private property with the permission of the property owner. The bill was postponed indefinitely by the House Transportation and Local Government Committee on February 26, 2020.

City Staff recommended an active oppose position.

Staff recommended an oppose position as this bill violated several city code sections that govern use of public right of way, use of public parks, definition of dwelling units. "Public space" and "alternative adequate shelter" were not defined which would have meant litigation to define those terms.

FSIR Position: Active Oppose

Radio Communications Policies of Gov Entities: HB20-1282

The bill required each entity of the government of each city that encrypts all of its radio communications to enact an encryption policy. The bill was postponed indefinitely by the House Transportation and Local Government Committee on March 4, 2020.

City Staff recommended an active oppose position.

Staff recommended an oppose position as this bill would have required APD and other departments with encrypted radios to provide access to encrypted radio communications to members of the media. The definition of “unreasonable and burdensome limitations” was not defined and would have likely lead to many legal challenges. There were security and privacy concerns that necessitate encrypted communications.

FSIR Position: Active Oppose

Colorado Rights Act: HB20-1287

Concerning enforcement of Colorado constitutional rights in Colorado state courts. The bill would have allowed a person who has a right, privilege, or immunity secured by the Colorado constitution that is infringed upon to bring a civil action for the violation. The bill was postponed indefinitely by the House Judiciary Committee on March 5, 2020.

City Staff recommended an active oppose position.

Staff recommended an oppose position as this bill would have removed qualified immunity for local government officials and could have had a significant financial impact.

FSIR Position: Active Oppose

Emergency Telephone Service Charges: HB20-1293

This bill concerned the provision of emergency telephone service, and, in connection therewith, establishing the 911 surcharge and amending the requirements for the emergency telephone charge and the prepaid wireless 911 charge. The bill passed third reading in the Senate Committee of the Whole on June 10, 2020. This bill moves to the governor for his signature or veto.

City staff recommend an active support position.

Staff recommended a support position as this bill provides more flexibility for local governments to petition for rate adjustments should they be deemed necessary to cover 911 expenses. In addition, the bill provides procedures for local bodies to assess overdue or unpaid remittances and a process for the local government to audit the collections of service suppliers.

FSIR Position: Active Support

Nonsubstantive Emails And Open Meetings Law: HB20-1308

This Bill offered some guidance or direction as to when electronic communications (e-mails) begins implicating the Open Meetings law. The bill was laid over until December 21, 2020 by the House Committee of the Whole on May 28, 2020.

City Staff recommend an active support position.

Staff recommended a support position as this bill would have clarified that scheduling e-mails and e-mails forwarding backup for future meetings were not the types of e-mails which implicate the Open Meetings law. Such e-mails could be broadcast e-mails copying multiple parties.

FSIR Position: Active Support

Local Government Authority Promote Affordable Housing Units: HB20-1351

The bill clarified that the existing authority of cities and counties (local governments) to plan for and regulate the use of land includes the authority to regulate development or redevelopment in order to promote the construction of new affordable housing units. The bill was postponed indefinitely by the House Transportation and Local Government Committee on May, 27, 2020.

City Staff recommended an active support position.

Colorado state law has long given local governments broad authority to regulate and oversee the development of land within their respective jurisdictions in order to achieve various public policy goals. This bill could have led to a growth in affordable housing stock.

FSIR Position: No position taken - This bill was scheduled for the March 20 FSIR which was cancelled due to emerging COVID-19 pandemic. Bill was not brought back to committee.

Cigarette Tobacco And Nicotine Products Tax : HB20-1427

This bill concerned the taxation of products that contain nicotine, and, in connection therewith, incrementally increasing the cigarette tax and the tobacco products tax. An amended version of this bill passed the House Committee of the Whole on June 15, 2020. This bill moves to the governor for his signature or veto.

City Staff did not recommend a position.

FSIR Position: Pursue Changes Through Bill Sponsor

Workers' Compensation for Audible Psychological Trauma: SB20-026

This bill concerned eligibility for workers' compensation benefits for workers who are exposed to psychologically traumatic events visually or audibly. The bill passed the House Committee of the Whole on June 13, 2020. This bill moves to the governor for his signature or veto.

City Staff recommended a position of pursue changes through 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.

FSIR Position: Pursue Changes Through Bill Sponsor

Limit Mobile Electronic Devices While Driving: SB20-065

The bill limited the use of a mobile electronic device while driving to adult drivers who use the mobile electronic device through a hands-free accessory. The bill was postponed indefinitely by the House Transportation and Energy Committee on May 27, 2020.

City staff recommended a position of pursue changes through the bill sponsor.

Aurora Water was seeking an exemption for municipal workers who use mobile radios in the course of their work.

FSIR Position: Pursue Changes Through Bill Sponsor

Robotic Device Deliver Cargo: SB20-092

This bill concerned 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 was postponed indefinitely in the Senate Business, Labor, and Technology Committee on February 26, 2020.

City staff recommended a position of pursue changes through bill sponsor.

There were a local control issues associated with this bill. The bill prohibited elements of local regulation of robotic delivery devices and could have violated the state constitution regarding areas of local concern. The bill authorized robotic devices in pedestrian areas but prohibited cities from regulating zones or hours of operation or substantially prohibiting the devices.

FSIR Position: Pursue Changes Through Bill Sponsor

Consumer and Employee Dispute Resolution Fairness: SB20-093

This bill updated the guidelines surrounding arbitration of construction defects lawsuits. The bill was postponed indefinitely by the House Committee on Finance on June 4, 2020.

City staff recommend an active oppose position.

Staff recommended an oppose position as this bill could have made arbitration more difficult which could have prolonged judgement in construction defects lawsuits and stunt for sale condo construction.

FSIR Position: Pursue Changes Through Bill Sponsor

Allow Home Child Care in Homeowners' Association Community: SB20-126

The bill allowed a homeowner in a community organized under the Colorado Common Interest Ownership Act to operate a licensed family child care home, notwithstanding anything to the contrary in the community's governing documents. The bill passed the House Committee of the Whole on June 13, 2020. This bill moves to the governor for his signature or veto.

City Staff recommended a position of pursue changes through the bill sponsor.

The bill did not directly specify the need to comply with local zoning code regulations.

FSIR Position: Pursue Changes Through Bill Sponsor

Consumer Protection Construction Defect Time Period: SB20-138

This is a companion bill to SB20-093 and increases the statutory limitation period for construction defects lawsuits. The bill was laid over until December 31, 2020 by the Senate Committee of the Whole on May 28, 2020.

City staff recommended an active oppose position.

Staff recommended an oppose position as this bill would have increased the statutory limitation period for actions based on construction defects from 6 to 10 years which could prolong judgement in construction defects lawsuits and stunt for sale condo construction.

FSIR Position: No position taken - This bill was scheduled for the March 20 FSIR which was cancelled due to emerging COVID-19 pandemic. Bill was not brought back to committee.

Administration of the RTD Regional Transportation District: SB20-151

This bill makes several changes to the Regional Transportation District Act including providing factors for the district to consider in making decisions about services, route planning, and rates. The bill was Postponed Indefinitely by the Senate Judiciary Committee on May 26, 2020.

City staff recommended an active oppose position.

Staff recommended an oppose position as section 2 of this bill would have created new rights of action in which an individual plaintiff can bring a lawsuit alleging discrimination and states these new rights are not subject to the Colorado Governmental Immunity Act which would have set a dangerous precedent.

FSIR Position: Active Oppose

Species Conservation Trust Fund Projects: SB20-201

The bill appropriates \$4 million from the species conservation trust fund for programs submitted by the executive director of the department of natural resources that are designed to conserve native species that state or federal law list as threatened or endangered or that are candidate species or are likely to become candidate species as determined by the United States fish and wildlife service. This bill passed the House Committee of the Whole on June 12, 2020. This bill moves to the governor for his signature or veto.

City staff recommended an active support position.

The bill appropriates \$4 million from the species conservation trust fund for programs submitted by the executive director of the department of natural resources that are designed to conserve native species that state or federal law list as threatened or endangered or that are candidate species or are likely to become candidate species as determined by the United States fish and wildlife service. The bill includes \$1,900,000 in funding to the Platte River Recovery Implementation Program that provides Aurora and other water users with ESA Compliance for South Platte River water supply operations.

FSIR Position: Active Support

Sick Leave for Employees: SB20-205

The bill creates the Healthy Families and Workplaces Act (act), which requires employers to provide paid sick leave to employees under various circumstances. On and after the effective date of the act through December 31, 2020, employers are required to provide each of their employees paid sick leave for employees to take for reasons related to the COVID-19 pandemic in the amounts and for the purposes specified in the federal Emergency Paid Sick Leave Act in

the Families First Coronavirus Response Act. An amended version of this bill passed the Senate Committee of the Whole on June 15, 2020.

City Staff recommended a position of pursue changes through the bill sponsor.

Aurora currently provides paid sick leave. If there are additional requirements it would be considered an unfunded mandate.

FSIR Position: Pursue Changes Through Bill Sponsor

Workers' Compensation for COVID-19: SB20-216

This bill provides that, for purposes of the "Workers' Compensation Act of Colorado", if an essential worker who works outside of the home contracts COVID-19, the contraction is: Presumed to have arisen out of and in the course of employment; and a compensable accident, injury, or occupational disease. An essential worker is considered to have contracted COVID-19 if the worker tests positive for the virus that causes COVID-19, is diagnosed with COVID-19 by a licensed physician, or has COVID-19 listed as the cause of death on the worker's death certificate. The bill was postponed indefinitely by the Senate Appropriations Committee on June 10, 2020.

City staff recommended an active oppose position.

Staff recommended an oppose position as the proposed legislation would have had a fiscal impact on workers' compensation claims for our public safety, utility personnel and other essential employees. As a self-insured entity the incurred expenses and future expenses to date would affect the workers' compensation claims, insurance coverage, and increase the budgetary impacts for claims and coverage of this nature. It should be noted the bill was broad in coverage and presumption for a community spread condition that could have had a current and on-going budgetary impact in cost.

FSIR Position: Pursue changes through bill sponsor

Enhancing Law Enforcement Integrity: SB20-217

This bill concerns new mandates on local law enforcement agencies including requiring all on-duty officers to wear body cameras, requirements on releasing body camera footage, and mandates for the Police Officer Safety and Training (POST) Board on tracking footage. The bill also includes measures concerning the inappropriate use of force by officers, the ability for a citizen to bring a civil suit, and liability of officers and police departments. An amended version of the bill passed the Senate Committee of the Whole on June 13, 2020. This bill moves to the governor for his signature or veto.

City staff recommended an active support position.

After initially opposing the bill, Senate Republicans worked with bill sponsors on substantive amendments. Among the amendments was an extension of the deadline for peace officers to have body cameras to July 1, 2023. The defense of qualified immunity is specifically prohibited with regard to the liability of a peace officer as outlined in the bill. If a peace officer is found to have not acted in good faith, they are personally liable for 5% of a judgement up to \$25,000 but if the amount is not able to be collected, the amount can be recovered from the peace officer's employing jurisdiction or insurer. This amount has been lowered from \$100,000 included in the original draft.

Other amendments included: changes that clarified what is considered a stop or contact with the community; limits to the collection of demographic information; an extension of the statues of limitation for filing a claim; means to address privacy issues related to body camera footage; and coverage of an officer in the event of a body camera malfunction.

FSIR Position: Active Support

Information Items Discussed in FSIR

Nicotine Product Regulation: HB20-1001

This bill would have raised the minimum age of a person to whom cigarettes, tobacco products, and nicotine products may be sold from 18 years of age to 21 years of age. It also repeals the criminal penalty for purchasing or attempting to purchase the products as a minor. An amended version of the bill passed the House Committee of the Whole on June 12, 2020. This bill moves to the governor for his signature or veto.

Suppressing Court Records of Eviction Proceedings: HB20-1009

The bill required a court to suppress court records related to an eviction proceeding or an action for termination of a mobile home park tenancy so that the records are not publicly available. Governor Polis signed this bill into law on March 20, 2020.

Replacing Columbus Day with New State Holiday: HB20-1031

The bill replaced Columbus Day with Frances Xavier Cabrini Day as a state legal holiday on the first Monday in October. Governor Polis signed this bill into law on March 20, 2020.

Programs To Develop Housing Support Services: HB20-1035

The bill established and expanded programs within the division of housing in the Department of Local Affairs to build the capacity of communities across the state to provide supportive housing services to individuals with behavioral, mental health, or substance use disorders who are homeless or at risk of becoming homeless and who have contact with the criminal or juvenile justice system. This bill passed the House Committee on Transportation and Local Government but died on the House Appropriations calendar.

Local Government Liable Fracking Ban Oil And Gas Moratorium: HB20-1070

The bill specifies that a local government that bans hydraulic fracturing of an oil and gas well is liable to the mineral interest owner for the value of the mineral interest and that a local government that enacts a moratorium on oil and gas activities shall compensate oil and gas operators, mineral lessees, and royalty owners for all costs, damages, and losses of fair market value associated with the moratorium. The bill was postponed indefinitely by the House Committee on Energy and Environment on January 27, 2020.

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 was postponed indefinitely by the House Judiciary Committee on January 30, 2020.

Create Occupational Credential Portability Program: HB20-1326

This bill concerned an expansion of an individual's ability to practice an occupation in Colorado through creation of an occupational credential portability program. This bill is viewed as a necessary component to attract the permanent US Space Command Base to Colorado and has been fast tracked. This bill passed the Senate Committee of the Whole on Wednesday, June 3, 2020. It will head to the governor for his signature or veto.

Prohibit Housing Discrimination Source of Income: HB20-1332

The bill added discrimination based on source of income as a type of unfair housing practice. "Source of income" is defined to include any source of money paid directly, indirectly, or on behalf of a person, including income from any lawful profession or from any government or private assistance, grant, or loan program. An amended version of this bill passed the House Committee of the Whole on June 13, 2020. It will head to the governor for his signature or veto.

Funding Eviction Legal Defense: HB20-1405

The bill assessed an additional \$30 fee on a person who commences a forcible entry and detainer action. The full amount of the fee is deposited into the eviction legal defense fund (fund). The bill makes the state court administrator's requirement to award grants from the fund subject to available appropriations. This bill was postponed indefinitely by House Committee on Finance on June 6, 2020.

COVID-19-related Housing Assistance: HB20-1410

Concerning assistance for individuals facing a housing-related hardship due to the COVID-19 pandemic, and, in connection therewith, transferring money received from the federal government pursuant to the "CARES Act" to the eviction legal defense fund and the housing development grant fund to provide such assistance and making an appropriation. This bill passed the Senate Committee of the Whole on June 15, 2020. It will head to the governor for his signature or veto.

COVID-19 Utility Bill-payment Related Assistance: HB20-1412

This bill concerned assistance for individuals unable to pay their utility bills due to economic hardship caused by the COVID-19 pandemic, and, in connection therewith, transferring money received from the federal government pursuant to the "CARES Act" to the energy outreach Colorado low-income energy assistance fund to provide such assistance. An amended version of this bill passed the House Committee of the Whole on June 12, 2020. It will head to the governor for his signature or veto.

Small Business Recovery Loan Program Premium Tax Credits: HB20-1413

Concerning the establishment of a state and private investor funded small business recovery loan program, and, in connection therewith, authorizing the department of the treasury to obtain the state share of funding for the program by selling insurance premium tax credits to qualified taxpayers and authorizing the state treasurer to contract with a program manager to establish and

administer the program. This bill passed the Senate Committee of the Whole on June 11, 2020. It will head to the governor for his signature or veto.

Repeal Ban On Local Government Regulation Of Plastics: SB20-010

The bill repeals language that prohibits local governments from banning the use or sale of specific types of plastic materials or restricting or mandating packaging or labeling of any consumer products. This bill has local control implications. This bill was postponed indefinitely by Senate Committee on Local Government on February 4, 2020.

Unemployment insurance: SB20-207

This bill would create a rebuttable presumption that an individual is an independent contractor and creates a mechanism for the individual to be deemed an employee for the purposes of determining eligibility for unemployment insurance compensation benefits. As this bill refers mostly to contract employees it would have little effect on the city. An amended version of this passed the House Committee of the Whole on June 13, 2020. It will head to the governor for his signature or veto.

Repeal Property Tax Assessment Rates: SCR20-001

This concurrent resolution would refer to the voters a repeal of the Gallagher Amendment. The proposed language states: “Submitting to the registered electors of the state of Colorado an amendment to the Colorado constitution to repeal the requirement that the general assembly periodically change the residential assessment rate in order to maintain the statewide proportion of residential property as compared to all other taxable property valued for property tax purposes and repeal the nonresidential property tax assessment rate of twenty-nine percent.” An amended version of this resolution passed the House Committee of the Whole on June 12, 2020.

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MEMORANDUM

To: City of Aurora
From: Holland & Knight
Re: Police Reform Bills in Congress
Date: June 17, 2020

Following the fatal shooting of Breonna Taylor, death of George Floyd, and protests that followed, Congress is moving swiftly towards federal legislation to address police reform.

In the House, Speaker Pelosi (D-CA) tasked Rep. Karen Bass (D-CA), Chairwoman of the Congressional Black Caucus, to draft legislation to “establish a bold transformative vision of policing in America.” Working with House Judiciary Committee Chairman Jerrod Nadler (D-NY) and Senators Kamala Harris (D-CA) and Cory Booker (D-NJ), Rep. Bass combined other pending police reform bills to produce H.R. 7120, the George Floyd Justice in Policing Act-- Rep. Jason Crow (D-CO) is a lead sponsor. House Republicans are working on their own reform bill, led by Rep. Jim Jordan (R-OH).

On the Senate side, Sen. Rand Paul’s (R-KY) has introduced “Justice for Breonna Taylor” Act. Senate Majority Leader Mitch McConnell (R-KY) asked Sen. Tim Scott (R-SC) to lead in the Senate, and he recently introduced the “JUSTICE Act” on behalf of Senate Republicans.

Below are summaries of the current House and Senate bills seeking to reform policing in America, timing for their consideration, and President Donald Trump’s Executive Order on “Safe Policing for Safe Communities”.

House and Senate Democrats Justice in Policing Act (H.R. 7120/S. 3192)

In an effort to address recent public concerns related to systemic racism and excessive force, Representative Karen Bass (D-CA), chair of the House Judiciary’s Subcommittee on Crime and chair of the Congressional Black Caucus, and Representative Jerrold Nadler (D-NY), chair of the House Judiciary Committee; and Senate Judiciary Committee members, Senator Kamala Harris (D-CA) and Cory Booker (D-NJ), introduced the Justice in Policing Act of 2020 on June 8.

The bill, [H.R. 7120](#), would –

- Prohibit federal, state, and local law enforcement from racial, religious and discriminatory profiling, and mandates training for all law enforcement.

- Ban chokeholds, carotid holds and no-knock warrants at the federal level, and limit the transfer of military-grade equipment to state and local law enforcement. (Stop Militarizing Law Enforcement Act)
- Mandate dashboard cameras/body cameras for federal offices, and require state and local law enforcement to use existing federal funds to ensure the use of police body cameras. (Federal Police Camera & Accountability Act, H.R. 3364)
- Establish a national police misconduct registry to prevent problematic officers who are fired or leave on agency from moving to another jurisdiction without any accountability.
- Amend federal criminal statute from “willfulness” to a “recklessness” standard to identify and prosecute police misconduct.
- Limit qualified immunity so that individuals are not barred from recovering damages when police violate their constitutional rights.
- Establish public safety innovation grants to create local commissions and task forces to help communities to develop concrete, equitable public safety approaches.
- Create law enforcement training programs to develop best practices, and require the creation of law enforcement accreditation standard recommendations.
- Require state and local law enforcement agencies to report use of force data, disaggregated by race, sex, disability, religion, and age.
- Improve the use of pattern and practice investigations at the federal level by granting the Department of Justice Civil Rights Division subpoena power, and create a grant program for state attorneys general to conduct independent pattern and practice investigations.
- Establish a Department of Justice task force to coordinate the investigation, prosecution and enforcement efforts of federal, state and local governments in cases related to law enforcement misconduct.
- Includes the Justice for Victims of Lynching Act, which would create a new criminal prohibition on lynching, defined as conspiracy to violate certain federal hate crime statutes.
- Includes the PEACE Act (H.R. 4359), which would allow federal law enforcement officers to use force only as a last resort when necessary to prevent death or serious bodily injury, and condition federal grants on state and local law enforcement agencies’ establishing the same use of force standard.

George Floyd Law Enforcement Trust and Integrity Act, H.R. 7100, Co-Sponsored by Rep. Jason Crow (D-CO)

House Judiciary Committee Chairman Jerrold Nadler (D-NY), Congressional Black Caucus Chairwoman Karen Bass (D-CA), Rep. Jason Crow (D-CO), Rep. Ilhan Omar (D-MN), and Rep. Sheila Jackson Lee (D-TX) introduced a bill titled the George Floyd Law Enforcement Trust and Integrity Act of 2020. The legislation seeks to address the issue of police accountability and to build trust between police departments and the communities they serve. As previously mentioned, this bill has been added to H.R. 7120. As a side note, the Senate version was previously introduced in December 2019, [S. 3063](#), by [Sen. Ben Cardin \(D-MD\)](#).

The bill authorizes the Department of Justice to work cooperatively with independent accreditation, law enforcement and community-based organizations to further develop and refine the accreditation standards, and authorizes the Attorney General to make grants to law enforcement agencies for the purpose of obtaining accreditation from certified law enforcement accreditation organizations. The polices for the bill grew out of recommendations from the Obama Administration Task Force on 21st Century Policing

The bill makes seven steps toward improving law enforcement management and misconduct prosecution tools:

- Title I: Law Enforcement Accreditation
 - This title requires the Attorney General to perform an initial analysis of existing law enforcement accreditation standards and to recommend areas for the development of additional national standards for accreditation of police agencies in conjunction with law enforcement accreditation groups, law enforcement associations, and labor and community-based groups. Such an analysis shall include a review of the recommendations of the Final Report of the President’s Taskforce on 21st Century Policing, issued in May 2015. Additionally, the Attorney General can recommend the adoption of uniform standards – including use of force procedures – for greater community law enforcement accountability. Further, it authorizes the Attorney General to make grants to police agencies for the purpose of obtaining accreditation from certified professional law enforcement accreditation organizations.
- Title II: Law Enforcement Development Programs
 - This Title authorizes the Attorney General to make grants to States, units of local government, Indian Tribal Governments, or other public and private entities, and multi-jurisdictional or regional consortia to study law enforcement agency management and operations. Grants would also help develop pilot programs to implement best practices focused on effective training, recruitment, hiring, management and oversight of law enforcement officers, which would also provide focused data for the development of additional accreditation standards.
- Title III: Administrative Due Process Procedures
 - This Title requires the Attorney General to study the prevalence and impact of any law, rule or procedure that allows a law enforcement officer to delay for an unreasonable or arbitrary period of time the answer to questions posed by a local internal affairs officer, prosecutor, or review board on the investigative integrity and prosecution of law enforcement misconduct.

- Title IV: Enhanced Funding To Combat Police Misconduct & Reform Police Departments
 - This Title authorizes \$25 million for additional expenses relating to the enforcement of civil rights statutes – including compliance with consent decrees or judgments – regarding police misconduct brought by the Department of Justice, pursuant to Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (now 34 U.S.C. 12601). This Title also authorizes appropriations for additional expenses relating to conflict resolution, including programs managed by the Department of Justice’s Community Relations Services, within the Civil Rights Division.
- Title V: National Task Force on Law Enforcement Oversight
 - This provision requires the Department of Justice to establish a task force to coordinate the investigation, prosecution and enforcement efforts of federal, state and local governments in cases related to law enforcement misconduct. It also authorizes appropriations to support task force efforts.
- Title VI: Federal Data Collection on Police Practices
 - This provision requires each Federal, State, and local law enforcement agency to report to the Attorney General data on the following: 1) traffic violation stops; 2) pedestrian stops and detentions; and 3) the use of deadly force by and against law enforcement officers, including the outcome (injury or death) and the law enforcement agency’s justification, if applicable.
- Title VII: Medallions for Fallen Law Enforcement Officers
- This provision requires the Department of Justice, in cooperation with the National Law Enforcement Officers Memorial Fund, to create and provide a distinctive medallion to be issued to the survivors of law enforcement officers killed in the line of duty or memorialized on the National Law Enforcement Officers Memorial.

House Republican Bill led by Rep. Jim Jordan (R-OH)

Republicans in the House are beginning to lay down initial markers of reforms following the release of the House Democrats’ expansive legislation focused on police accountability. There is little public information available at this time, but it is expected the GOP caucus will agree with banning chokeholds, as House Minority Leader Kevin McCarthy (R-CA) mentioned last week. A number of local jurisdictions have already moved to ban chokeholds, but the legislation would make it a federal standard.

The Republican version of a reform bill is being led by Rep. Jim Jordan (R-OH), Ranking Member of the House Judiciary Committee. During last week’s House Judiciary Committee hearing on police brutality and racial profiling, which featured George Floyd’s brother as a witness, it was clear that Democrats and Republicans have a large rift to repair on policing reforms. Rep. Jordan has said the House Republican bill will focus on officer training, accountability for police engaged in misconduct and strengthening publicly available data.

Timing for House Bill

The House Judiciary Committee held an oversight hearing June 10 on “Policing Practices and Law Enforcement Accountability” and marked up the bill on June 17. At this time, the House Democrats are aiming for a floor vote on the legislation the week of June 22.

Justice for Breonna Taylor Act led by Sen. Rand Paul (R-KY)

Sen. Rand Paul (R-KY) has introduced [S. 3955](#) that bans "no-knock" warrants, which allow police officers to enter a person's home without identifying themselves. His bill is named after Breonna Taylor, a 26-year-old black woman who was fatally shot in her home when police entered through a "no-knock" warrant.

The bill would require federal law enforcement officers to give notice "of his or her authority and purpose" before entering someone's home – and apply the same standard to local departments who receive federal funds from the Justice Department. Part of this legislation is included in the Democrats' legislation. Below is a comparison of the bill language in the Justice for Breonna Taylor Act and the Justice in Policing Act:

Justice for Breonna Taylor Act	Justice in Policing Act
<p>STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—</p> <p>Beginning in the first fiscal year beginning after the date of enactment of this Act, and each fiscal year thereafter, a State or local law enforcement agency that receive funds from the Department of Justice during the fiscal year may not execute a warrant that does not require the law enforcement officer serving the warrant to provide notice of his or her authority and purpose before forcibly entering a premises.</p> <p>Full bill text</p>	<p>LIMITATION ON ELIGIBILITY FOR FUNDS.—</p> <p>Beginning in the first fiscal year beginning after the date of enactment of this Act, a State or local jurisdiction may not receive funds under the COPS grant program for a fiscal year if, on the day before the first day of the fiscal year, the State or other jurisdiction does not have in effect a law that prohibits the issuance of a no-knock warrant in a drug case.</p> <p>Full bill text</p>

Senate Republicans: The JUSTICE Act led by Sen. Tim Scott (R-SC)

Senate Republicans have [unveiled](#) their police reform bill, the “Just and Unifying Solutions To Invigorate Communities Everywhere” (JUSTICE) Act of 2020. Sen. Tim Scott (R-SC), who took the lead on drafting the bill, and other members of the Senate GOP see the bill as a starting point for negotiations with House Democrats. Sen. Scott says his bill will improve policing practices across the U.S. and impose annual reporting requirements to FBI about cases involving serious bodily injury and reporting to DOJ about use of “no-knock warrants”. The legislation also aims to limit the use of chokeholds and offer federal funding for de-escalation training.

Released on June 17, the Senate Republican [bill would](#) focus on three areas – law enforcement reform, accountability, and transparency. Details of the bill are below, full text is available on Sen. Scott’s [website](#), and a [section-by-section summary](#) has also been made available.

Law Enforcement Reform

- Strengthens training methods and tactics throughout law enforcement jurisdictions, focusing on de-escalation of force and the duty to intervene, providing law enforcement with new funding to do so, and ending the practice of utilizing chokeholds
- Reforms hiring practices by providing more resources to ensure the makeup of police departments more closely matches the communities they serve
- Ensures when a candidate is interviewed, the department looking to hire will have access to their prior disciplinary records. Too often, after a tragic incident, we learn about past disciplinary issues in another jurisdiction

Accountability

- With studies that show body cameras (when properly used) significantly reduce violent encounters, the bill will put more body cameras on the streets, and ensure that departments are both using the cameras and storing their data properly
- Requires a report establishing best practices for the hiring, firing, suspension, and discipline of law enforcement officers

Transparency

- Currently, only about 40 percent of police officers from jurisdictions nationwide report to the FBI after an incident where an officer has discharged his or her weapon or used force
- The bill will require full reporting in these two areas
- There is also very little data as to when, where and why no knock warrants are used, and the this bill will require reporting in this area as well

Additional Steps

- The JUSTICE Act will finally make lynching a federal crime
- It also creates two commissions to study and offer solutions to a broader range of challenges facing black men and boys, and the criminal justice system as a whole

Timing for Senate Bill: Discussions surrounding the bill and these provisions have been mostly positive among the Senate Republican conference. Senate Majority Leader Mitch McConnell has said that he would like to see a vote on the Senate bill prior to the July 4 recess, most likely the week of June 29.

Timing for House/Senate Conference: There are a number of differences between the Democrats and Republican bills. The House and Senate leadership will need to work with the Administration on a compromise. Congress is hopeful to have a final bill, hopefully, ready before the August recess; however, the timing could slip to September. Members, on both sides, would like to pass bill before Election Day.

Trump Signs Executive Order on Police Reform

On June 16, President Trump unveiled an executive order that would encourage limiting the use of chokeholds and move to create a national database for police misconduct. The order is intended to send a message to Congress that the President is willing to work on meaningful reform.

Details of the order are included below, and the full executive order is available on the White House [website](#).

- Police departments that meet certain standards, outlined by the Justice Department, on use of force will be given access to federal grants. Departments must ban the use of chokeholds to receive such certification, unless an officer is targeted by deadly force.
- The order also creates a national registry to track police officers with multiple instances of the use of excessive force.
- The order also includes new programs that would help law enforcement officials better deal with mental illness, homelessness, and addiction — including encouraging departments to involve mental health professionals and social workers to work alongside officers in the field.
- Chokeholds would be “banned” nationwide, except when an officer’s life is at risk, under a new credentialing process for law enforcement agencies.

**INTERGOVERNMENTAL AGREEMENT
VETERANS SERVICE OFFICER POSITION**

This Intergovernmental Agreement (“Agreement”), dated for reference purposes on this ____ day of _____, 2020, is made and entered into by and between the CITY OF AURORA, COLORADO, a body politic, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE, COLORADO, a body politic and THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ADAMS, COLORADO, a body politic, for the provision of a Veterans Service Officer position that will serve citizens of all three entities.

WHEREAS, each county in Colorado has a veterans service office that offers free assistance to veterans through a veteran service officer(s); and

WHEREAS, the City of Aurora enjoys a strong partnership with both Arapahoe County and Adams County and supports the counties’ efforts to provide assistance to veterans through its veterans service offices located in Westminster (Adams) and Littleton (Arapahoe); and

WHEREAS, with the opening of the VA Eastern Colorado Health Care System (“VA Hospital”) in Aurora, the parties believe that a placement of a veteran services officer near the VA Hospital will be a great benefit to their resident veterans; and

WHEREAS, the parties have committed to a pilot program for one (1) year to share the responsibility of a veterans service officer position on the terms and conditions stated in this Agreement; and

WHEREAS, during this pilot program, Adams County would employ the veterans service officer, dividing the compensation evenly with Arapahoe County, and host the position at Adams County’s location ten (10) minutes from the VA Hospital; and

WHEREAS, during this pilot program, the City of Aurora will provide office supplies such as a computer, printer/fax machine, desk and chairs; and

WHEREAS, the parties agree that this additional veteran services officers to meet the needs of resident veterans from the area.

NOW THEREFORE, the parties agree as follows:

I) RESPONSIBILITIES OF THE PARTIES

A) Adams County

1) Veterans Service Officer

- (a) Adams County will be responsible for the hiring of one Veterans Services Officer (“VSO”) contemplated by this Agreement and shall be responsible for the supervision of the VSO, and management of the workload for the VSO. The position under this Agreement is contemplated to be for one (1) year as a pilot

program for **fiscal year 2020**.

(b) Adams County shall fund 50% of the VSO FTE position for one (1) year as a pilot program. This funding responsibility for Adams County is:

- (i) 50% of the cost of the compensation package for the VSO's position
- (ii) 50% of the cost of any conferences, training, and continuing education programs attended by the VSO during the one (1) year pilot program.

B) Arapahoe County

1) Veterans Service Officer

(a) Arapahoe County shall fund 50% of one Adams County VSO FTE position for one (1) year as a pilot program. This funding responsibility of Arapahoe County to be paid to Adams County, through invoicing, is:

- (i) 50% of the cost of the compensation package for the VSO's position
- (ii) 50% of the cost of any conferences, training, and continuing education programs attended by the VSO during the one (1) year pilot program.

(b) Arapahoe County shall ensure that the VSO has all necessary information that Arapahoe County can provide to perform its role for veteran residents of Arapahoe County, to include being trained by the current Arapahoe County veterans services officer currently located in the Littleton office.

2) Office Space

(a) Arapahoe County will make office space available for the VSO in the judicial services area in the Arapahoe County building located at Colfax and Chambers – Alterra Plaza. The office space will include clerical support and reception.

C) City of Aurora

1) Veteran Services Officer

(a) The City of Aurora shall be responsible for 100% of the cost of supplies reasonably needed by the Veterans Service Officer in performance of the Officer's duties during the one (1) year pilot program. Such supplies will include:

- (i) Computer, screen, mouse, printer, chair, desk, file cabinet, phone (?)
- (ii) A reasonable amount of office supplies such as pens, pencils, paper, staplers, etc.

(b) The City of Aurora shall ensure that the VSO has all necessary information that the City can provide to perform its role for veteran residents of the City of Aurora.

IT/email and internet? Who provides the email address? office space (arap) or employer (adams)?

II) TERM OF AGREEMENT

A) This Agreement shall commence _____, 2020 at 12:01 a.m and shall terminated on _____, 2021 at 12:00 a.m or until earlier terminated as defined by this IGA.

B) Any party may terminate this Agreement by giving prior written notice to the other parties not less than ninety (90) days before the effective date of termination, such notice shall be sent to the party's address and email address as listed below.

III) PAYMENT AND PROVISION SCHEDULE

- A) Adams County shall provide invoices [OTHER MANNER] to Arapahoe County for the payment of compensation and training due under this Agreement.
- B) The City of Aurora will provide initial office supplies, to include the computer, screen, mouse, desk and chair, to Adams County for set up in the Adams County Office within thirty (30) days of the execution of this Agreement, and will provide the remainder of reasonable office supplies no later than one (1) week after the starting date of the Veteran Services Officer.
- C) The Veteran Services Officer shall submit request for office supplies to the City of Aurora [WHO] no more than one (1) time/month. The City of Aurora will work diligently to process all requests and will raise any concerns with Adams County, as the employing agency.

IV) FUND AVAILABILITY

- A) The parties acknowledge that, as of the date of this IGA, each party has appropriated sufficient funds for this Agreement for the applicable fiscal year.
- B) The parties acknowledge that this Agreement and/or any extension of its original term shall be contingent upon annual funding being appropriated, budgeted, and otherwise made available for such purposes and subject to the each party's satisfaction with the service received during the preceding term. Upon the agreement and with the consent of both Counties and the City and if the parties appropriates additional money for each subsequent fiscal year, this Agreement may be extended for additional one year terms.
- C) Maximum Contract Expenditure. Any other provision of this Agreement notwithstanding and pursuant to C.R.S. § 29-1-110, the amount of funds appropriated for this Agreement by both Adams County and Arapahoe County, each respectively, is _____ Thousand Dollars (\$____,000.00) for the fiscal year of 2020. Any potential expenditure for this Agreement outside the current fiscal year is subject to future annual appropriation of funds for any such proposed expenditure.
- D) In the event a party believes at any time that the amount remaining in the Agreement will be insufficient to cover its responsibilities under the terms of the Agreement for the remainder of the fiscal year, that party will immediately notify the other two parties of such concern. If a party cannot give adequate assurances to the other two parties that additional funds will be appropriated to cover the projected shortfall, any party can take whatever action it deems most appropriate, including terminating the Agreement.

V) MISCELLANEOUS

- A) Indemnification/Insurance. Each party shall be fully responsible for its own employee(s) consistent with all applicable laws. As stated above, the Veteran Services Officer shall be an employee of Adams County. Each party agrees to provide the other party written notice within sixty (60) days of the knowledge of any claim or controversy giving rise to a claim for indemnification as provided herein.
- B) Governmental Immunity. All activities performed under this Agreement are hereby declared to be governmental functions. The parties to this Agreement and their personnel complying with or reasonably attempting to comply with this Agreement or any ordinance, order, rule or regulation enacted or promulgated pursuant to the provisions of this Agreement shall be deemed to be operating within the scope of their duties and responsibilities and in furtherance of said governmental functions.
- C) No Waiver Under CGIA. Nothing in this Agreement shall be construed as a waiver by either

party of the protections afforded them pursuant to the Colorado Governmental Immunity Act, § 24-10-101 *et seq.*, C.R.S. (“CGIA”) as same may be amended from time to time. Specifically, neither party waives the monetary limitations, or any other rights, immunities or protections afforded by the CGIA or otherwise available at law.

D) Insurance.

1) The City of Aurora, Arapahoe County and Douglas County are all recognized as political subdivisions of the State of Colorado. As such they are governed by the Colorado Government Immunity Act.

2) Each party to this Agreement shall procure and maintain their own insurance as they deem appropriate.

E) Third Parties. This Agreement does not and shall not be deemed to confer upon any third party any right to claim damages to bring suit or other proceedings against either Arapahoe County or Douglas County because of any terms contained in this Agreement.

F) Severability. In the event that any of the provisions of this Agreement shall be held to be invalid or unenforceable, the remaining provisions shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable parts had not been included therein.

G) Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties and supersedes any prior agreement or understanding relating to the subject matter of this Agreement.

H) Modification. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

I) Survival. The rights and obligations of the parties shall survive the term of this Agreement to the extent that any performances is required under this Agreement after the expiration or termination of this Agreement.

J) Notices. Notices to be provided under this Agreement shall be given in writing and either delivered via e-mail, by hand or deposited in the United States mail with sufficient postage to the addresses set forth herein:

ADAMS COUNTY

Board of County Commissioners of Adams County
4430 S. Adams County Parkway
Brighton, Colorado 80601-8206

Adams County Attorney’s Office
4430 S. Adams County Parkway, Suite C5000B
Brighton, Colorado 80601-8206

ARAPAHOE COUNTY:

Board of County Commissioners of Arapahoe County
5334 South Prince Street
Littleton, Colorado 80120-1136
commissioners@arapahoegov.com

Arapahoe County Attorney
5334 South Prince Street

Littleton, Colorado 80120-1136
attorney@arapahogov.com

CITY OF AURORA

City Manager's Office, 5th Floor
15151 E. Alameda Parkway
Aurora, Colorado 80012
jtwombly@auroragov.org

City Attorney's Office, 5th Floor
15151 E. Alameda Parkway
Aurora, Colorado 80012
dbrotzma@auroragov.org

- K) Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado without regard to the conflict of laws of such State.
- L) Good Faith. The parties agree to work together in good faith in performing their obligations hereunder.

IN WITNESS WHEREOF, the parties have caused this Intergovernmental Agency Agreement to be executed by its duly authorized representatives as of the ____ day of _____, 2020.

CITY OF AURORA, COLORADO

Mike Coffman, Mayor

ATTEST

Stephen J. Ruger, City Clerk

APPROVED AS TO FORM:

Aurora City Attorney's Office

BOARD OF COUNTY COMMISSIONERS,
ADAMS COUNTY, COLORADO

Chair

ATTEST

Erica Hannah, County Clerk

APPROVED AS TO FORM:

Adams County Attorney's Office

BOARD OF COUNTY COMMISSIONERS,
ARAPAHOE COUNTY, COLORADO

Chair

ATTEST

Clerk to the Board

APPROVED AS TO FORM:

Arapahoe County Attorney's Office

MEMORANDUM



City of Aurora

Worth Discovering • auroragov.org

To: Federal, State and Intergovernmental Relations

Through: Marshall P. Brown, General Manager, Aurora Water
Alex Davis, Deputy Director of Water Resources

From: Kathy Kitzmann, Water Resources Principal

Date: June 26, 2020

Subject: Aurora Water – Federal Legislation CORE Act

Item and Committee History:

On July 29, 2015, FSIR approved of Aurora Water requesting Forest Service assistance in drafting a potential Holy Cross Wilderness Boundary adjustment and approved of opposing H.R. 2554 [114th] Continental Divide Wilderness and Recreation Act or similar bills.

On March 8, 2019, FSIR approved of Aurora Water request to oppose S.241 /H.R.823 [116th] Colorado Outdoor Recreation and Economy Act (CORE Act) and any similar bills without inclusion of a Holy Cross Wilderness boundary adjustment that benefits water supply project development.

Item Background:

Senator Bennet and Representative Neguse introduced the CORE Act on January 28, 2019. The CORE Act combines several previous Wilderness and lands bills including the Continental Divide Wilderness, Camp Hale National Historic Landscape, San Juan Mountain Wilderness, Thompson Divide land management, and Curecanti National Recreation Area proposals.

The Camp Hale National Historic Landscape and portions of the Continental Divide Wilderness proposals are within Eagle County where Aurora and its partners have significant water and land rights. To protect and support Aurora's ability to develop its future water supply, Aurora Water has been opposing these bills, working on language revisions with federal staff to address areas of our objections, and working on the potential Holy Cross Wilderness adjustment. Senator Bennet's staff have worked diligently with Aurora and Colorado Springs to revise water rights and wetland restoration language that has passed our attorney review to protect our operations and development of our water supply systems.

There are two minor remaining areas within the Camp Hale National Historic Landscape bill language that we are continuing to work through. We are requesting improved language around our planning and ability to restore Camp Hale wetlands as part of our 88CW449 water right and as part of our mitigation planning for future water supply development. We are also requesting improved language for wildfire prevention and mitigation actions in the area. The language in the attached *June 1 2020 draft Camp Hale National Historic Landscape revised language* document has changed substantially from introduction. As we refine any final revised language or reinforce the agreed upon intention of the language in the legislative record,

the CORE Act with *June 1 2020 draft Camp Hale National Historic Landscape revised language* has addressed our direct concerns.

Aurora Water continues to pursue the Holy Cross Wilderness adjustment; however, this adjustment is controversial and not fully ready at this time. Colorado Springs Utilities is changing their position on the CORE Act from neutral to support. After working with our partners, stakeholders, and legislative staff for revised language that meets everyone's needs, Aurora Water recommends that we change our position from oppose to neutral for the CORE Act. Should the Holy Cross Wilderness Adjustment be added to the CORE Act or similar legislation, we would come back to FSIR with a recommendation of support.

Question:

Does FSIR approve of changing Aurora's position of oppose to neutral for the CORE Act with *June 1 2020 Camp Hale National Historic Landscape revised language* that may be further revised favorably?

SEC. 107. CAMP HALE NATIONAL HISTORIC LANDSCAPE.

(a) Designation.--Subject to valid existing rights, the approximately 28,676 acres of Federal land in the White River National Forest in the State, as generally depicted as "Proposed Camp Hale National Historic Landscape" on the map entitled "Camp Hale National Historic Landscape Proposal" and dated June 24, 2019, are designated the "Camp Hale National Historic Landscape".

(b) Purposes.--The purposes of the Historic Landscape are--

(1) to provide for--

(A) the interpretation of historic events, activities, structures, and artifacts of the Historic Landscape, including with respect to the role of the Historic Landscape in local, national, and world history;

(B) the historic preservation of the Historic Landscape, consistent with--

(i) the designation of the Historic Landscape as a national historic site;
and

(ii) the other purposes of the Historic Landscape;

(C) recreational opportunities, with an emphasis on the activities related to the historic use of the Historic Landscape, including skiing, snowshoeing, snowmobiling, hiking, horseback riding, climbing, other road- and trail-based activities, and other outdoor activities; and

(D) the continued environmental remediation and removal of unexploded ordnance at the Camp Hale Formerly Used Defense Site and the Camp Hale historic cantonment area; and

(2) to conserve, protect, restore, and enhance for the benefit and enjoyment of present and future generations the scenic, watershed, and ecological resources of the Historic Landscape.

(c) Management.--

(1) In general.--The Secretary shall manage the Historic Landscape in accordance with--

(A) the purposes of the Historic Landscape described in subsection (b); and

(B) any other applicable laws (including regulations).

(2) Management plan.--

(A) In general.--Not later than 5 years after the date of enactment of this Act, the Secretary shall prepare a management plan for the Historic Landscape.

(B) Contents.--The management plan prepared under subparagraph (A) shall include plans for--

(i) improving the interpretation of historic events, activities, structures, and artifacts of the Historic Landscape, including with respect to the role of the Historic Landscape in local, national, and world history;

(ii) conducting historic preservation and veteran outreach and engagement activities;

(iii) managing recreational opportunities, including the use and stewardship of--

(I) the road and trail systems; and

(II) dispersed recreation resources;

(iv) the conservation, protection, restoration, or enhancement of the scenic, watershed, and ecological resources of the Historic Landscape, including --

(I) conducting the restoration and enhancement project under subsection (d);

(II) Wildfire management and mitigation

(III) Watershed health and protection

(v) environmental remediation and, consistent with subsection (e)(2), the removal of unexploded ordnance; and

(vi) managing the Historic Landscape in accordance with subsection (g).

(4) Explosive hazards.--The Secretary shall provide to the Secretary of the Army a notification of any unexploded ordnance (as defined in section 101(e) of title 10, United States Code) that is discovered in the Historic Landscape.

(d) Camp Hale Restoration and Enhancement Project.--

(1) In general.--The Secretary shall conduct a restoration and enhancement project in the Historic Landscape--

(A) to improve aquatic, riparian, and wetland conditions in and along the Eagle River and tributaries of the Eagle River;

(B) to maintain or improve recreation and interpretive opportunities and facilities; and

(C) to conserve historic values in the Camp Hale area.

(2) Coordination.--In carrying out the project described in paragraph (1), the Secretary shall coordinate with--

(A) the United States Army Corps of Engineers;

(B) the Camp Hale-Eagle River Headwaters Collaborative Group;

- (C) the National Forest Foundation;
- (D) the Colorado Department of Public Health and Environment;
- (E) the Colorado State Historic Preservation Office;
- (F) the Colorado Department of Natural Resources
- (G) units of local government; and
- (H) other interested organizations and members of the public.

(e) Environmental Remediation.--

(1) In general.--The Secretary of the Army shall continue to carry out the projects and activities of the Department of the Army in existence on the date of enactment of this Act relating to cleanup of--

- (A) the Camp Hale Formerly Used Defense Site; or
- (B) the Camp Hale historic cantonment area.

(2) Removal of unexploded ordnance.--

(A) In general.--The Secretary of the Army may remove unexploded ordnance (as defined in section 101(e) of title 10, United States Code) from the Historic Landscape, as the Secretary of the Army determines to be appropriate in accordance with applicable law (including regulations).

(B) Action on receipt of notice.--On receipt from the Secretary of a notification of unexploded ordnance under subsection (c)(3), the Secretary of the Army may remove the unexploded ordnance in accordance with--

- (i) the program for environmental restoration of formerly used defense sites under section 2701 of title 10, United States Code;
- (ii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and
- (iii) any other applicable provision of law (including regulations).

(3) Effect of subsection.--Nothing in this subsection modifies any obligation in existence on the date of enactment of this Act relating to environmental remediation or removal of any unexploded ordnance located in or around the Camp Hale historic cantonment area, the Camp Hale Formerly Used Defense Site, or the Historic Landscape, including such an obligation under—

- (A) the program for environmental restoration of formerly used defense sites under section 2701 of title 10, United States Code;
- (B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(C) any other applicable provision of law (including regulations).

(f) Interagency Agreement.--The Secretary and the Secretary of the Army shall enter into an agreement--

(1) to specify--

(A) the activities of the Secretary relating to the management of the Historic Landscape; and

(B) the activities of the Secretary of the Army relating to environmental remediation and the removal of unexploded ordnance in accordance with subsection (e) and other applicable laws (including regulations); and

(2) to require the Secretary to provide to the Secretary of the Army, by not later than 1 year after the date of enactment of this Act and periodically thereafter, as appropriate, a management plan for the Historic Landscape for purposes of the removal activities described in subsection (e).

(g) Effect.--Nothing in this section--

(1) affects the jurisdiction of the State over any water law, water right, or adjudication or administration relating to any water resource;

(2) affects any water right in existence on or after the date of enactment of this Act, or the exercise of such a water right, including--

(A) a water right subject to an interstate water compact (including full development of any apportionment made in accordance with such a compact);

(B) a water right decreed within, above, below, or through the Historic Landscape;

(C) a water right held by the United States;

(D) the management or operation of any reservoir, including the storage, management, release, or transportation of water;

(E) the construction or operation of such infrastructure as is determined to be necessary by an individual or entity holding water rights to develop and place to beneficial use those rights, subject to applicable Federal, State, and local law (including regulations);

(3) constitutes an express or implied reservation by the United States of any reserved or appropriative water right;

(4) alters or limits--

(A) a permit held by a ski area;

(B) the implementation of activities governed by a ski area permit; or

(C) the authority of the Secretary to modify or expand an existing ski area permit;

(5) prevents the Secretary from closing portions of the Historic Landscape for public safety, environmental remediation, or other use in accordance with applicable laws; or

(6) affects--

(A) any special use permit in effect on the date of enactment of this Act; or

(B) the renewal of a permit described in subparagraph (A).

(h) Funding.--

(1) In general.--There is established in the general fund of the Treasury a special account, to be known as the ``Camp Hale Historic Preservation and Restoration Fund''.

(2) Authorization of appropriations.--There is authorized to be appropriated to the Camp Hale Historic Preservation and Restoration Fund \$10,000,000, to be available to the Secretary until expended, for activities relating to historic interpretation, preservation, and restoration carried out in and around the Historic Landscape.

(i) Designation of Overlook.--The interpretive site located beside United States Route 24 in the State, at 39.431N 106.323W, is hereby designated as the ``Sandy Treat Overlook''.