

Colorado Legislative Report

First Regular Session

Seventy-second General Assembly

Revised February 11, 2019

S.B. 19-012

Use of Mobile Electronic Devices While Driving

Current law prohibits the use of wireless telephones while driving for individuals who are younger than 18 years of age. The bill:

- Extends the prohibition to drivers of all ages;
- Extends the existing prohibition of the use of wireless telephones to include all mobile electronic devices;
- Establishes the penalties as \$300 and 4 points for a first violation, \$500 and 6 points for a second violation, and \$750 and 8 points for a third or subsequent violation;
- Creates an exception to the prohibition of the use of mobile electronic devices for drivers who use a mobile electronic device while a hands-free accessory is engaged; and
- Repeals a sentence enhancement for a violation that causes bodily injury or death.

Status: Assigned to the Transportation and Energy Committee

Recommended position: Monitor – this bill would impact District operations because our employees are currently allowed restricted use of mobile phones while driving without the use of a hands free device.

S.B. 19-016

Severance Tax Operational Fund Distribution Methodology

The general assembly annually appropriates money from the operational fund for several core departmental programs, which were previously described as tier-one programs. If money remains after these appropriations and after a reserve requirement for the core departmental programs is satisfied, then the state treasurer transfers money to an array of funds that support natural resources and energy grant programs, which were previously described as tier-two programs. There is also a requirement that the reserve include an amount equal to 15 percent of the maximum transfers to natural resources and energy grant programs required by law and this reserve is used for the transfers, if necessary.

The bill changes the distribution of the money in the operational fund as follows:

- Separates the reserve into the core reserve and the grant program reserve, while maintaining the overall purpose of each.

- Increases the maximum grant program reserve to 100 percent of the maximum transfers to the natural resources and energy grant programs required by law, which currently is equal to \$36, 378,072.
- Requires the state treasurer to make the transfers to the natural resources and energy grant programs on August 15 after a fiscal year and to base the transfers on actual revenue as opposed to estimated revenue. Money from the grant program reserve may be used for these transfers.
- If all appropriations and transfers have been made and both reserves are full, then the state treasurer is required to transfer any money remaining in the operational fund to the severance tax perpetual base fund.

Status: Passed the Senate. Introduced in the House and assigned to the Energy and Environment and Finance Committees

Recommended position: **Support**

S.B. 19-085

Equal Pay for Equal Work Act

The bill removes the authority of the director of the division of labor standards and statistics in the department of labor and employment (director) to enforce wage discrimination complaints based on an employee's sex and instead permits an aggrieved person to bring a civil action in district court to pursue remedies specified in the bill.

The bill allows exceptions to the prohibition against a wage differential based on sex if the employer demonstrates that a wage differential is based upon one or more factors, including:

- A seniority system;
- A merit system; or
- A system that measures earnings by quantity or quality of production.

The bill prohibits an employer from:

- Seeking the wage rate history of a prospective employee;
- Relying on a prior wage rate to determine a wage rate;
- Discriminating or retaliating against a prospective employee for failing to disclose the employee's wage rate history; and
- Discharging or retaliating against an employee for actions by an employee asserting the rights established by the bill against an employer.

The bill requires an employer to announce to all employee's employment advancement opportunities and job openings and the pay range for the openings. The director is authorized to enforce actions against an employer

concerning transparency in pay and employment opportunities, including fines of between \$500 and \$10,000 per violation.

Status: Assigned to the Senate Judiciary Committee

Recommended Position: Monitor

H.B. 19-1015

Recreation of the Colorado Water Institute

The Colorado water institute was created in 1981 and automatically repealed in 2017. The bill recreates the institute.

Status: Passed the House. Introduced in the Senate and assigned to the Agriculture and Natural Resources Committee

Recommended Position: Support

H.B. 19-1025

Limits on Job Applicant Criminal History Inquiries

The bill prohibits employers from:

- Advertising that a person with a criminal history may not apply for a position;
- Placing a statement in an employment application that a person with a criminal history may not apply for a position; or
- Inquiring about an applicant's criminal history on an initial application.

An employer may obtain a job applicant's criminal history at any time.

An employer is exempt from the restrictions on advertising and initial employment applications when:

- The law prohibits a person who has a particular criminal history from being employed in a particular job;
- The employer is participating in a program to encourage employment of people with criminal histories; or
- The employer is required by law to conduct a criminal history record check for the particular position.

The department of labor and employment is charged with enforcing the requirements of the bill and may issue warnings and orders of compliance for violations and, for second or subsequent violations, impose civil penalties. A violation of the restrictions does not create a private cause of action, and the bill does not create a protected class under employment anti-discrimination laws. The department is directed to adopt rules regarding procedures for handling complaints against employers.

Status: Assigned to the House Judiciary Committee

Recommended Position: Monitor

H.B. 19-1050

Encourage Use of Xeriscape in Common Areas

Section 1 of the bill augments an existing law that establishes the right of unit owners in common interest communities to use water-efficient landscaping, subject to reasonable aesthetic standards, by specifically extending the same policy to limited common elements, which are owned by the community and available for use by some but not all of the unit owners.

Sections 2 and 3 extend existing water conservation requirements, currently applicable only to certain public entities that supply water at retail and their customers, to property management districts and other special district that manage areas of parkland and open space.

Status: Passed the House. Introduced in the Senate and assigned to the Local Government Committee

Recommended Position: Support

H.B. 19-1056

Election Day Holiday in Place of Columbus Day

The bill establishes election day as a state legal holiday in place of Columbus Day.

Status: Assigned to the State, Veterans and Military Affairs Committee

Recommended Position: Monitor

H.B. 19-1058

Income Tax Benefits for Family Leave

Section 2 of the bill establishes leave savings accounts. A leave savings account is an account with a financial institution for which the individual uses money to pay for any expense while he or she is on eligible leave, which includes:

- The birth of a child of the individual and in order to care for the child;
- The placement of a child with the individual for adoption or foster care;
- Caring for a spouse, child, or parent of the individual if the spouse, child, or parent has a serious health condition;
- A serious health condition that makes the individual unable to perform the functions of the position of the individual; or

- Any qualifying exigency, as determined by the United States secretary of labor, arising out of the fact that a spouse, child, or parent of the individual is on covered active duty, or has been notified of an impending call or order to covered active duty, in the United States armed forces.

An individual may annually contribute up to \$5,000 of state pretax wages to a leave savings account. Employers may also make a matching contribution to an employee's leave savings account. The department of revenue is required to establish a form about a leave savings account, and the individual must annually file this form to be eligible for the tax benefit.

Sections 3 and 4 allow an employee and an employer to claim a state income tax deduction for amounts they contribute to the employee's leave savings account. Section 3 also allows a taxpayer to deduct any interest or other income earned on the investment during the taxable year from their leave savings account.

Regardless of how the money is deposited in the leave savings account, if an individual uses money in the account for an unauthorized purpose, then the money is subject to recapture in the year it is withdrawn and to a penalty equal to 10% of the amount recaptured.

Section 5 creates an income tax credit for an employer that pays an employee for leave that is between 6 and 12 weeks long for one of the following reasons:

- The birth of a child of the employee and in order to care for the child;
- Placement of a child with the employee for adoption or foster care;
Caring for a spouse, child, or parent of the employee if the spouse, child, or parent has a serious health condition;
- A serious health condition that makes the employee unable to perform the functions of the position of the employee; or
- Any qualifying exigency, as determined by the United States secretary of labor, arising out of the fact that a spouse, child, or parent of the employee is on covered active duty, or has been notified of an impending call or order to covered active duty, in the United States armed forces.

For employers with fewer than 50 employees, the credit is equal to 50% of the amount paid, and for employers with 50 or more employees it is equal to 25% of the amount paid. The credit is not refundable, but it may be carried forward up to 5 years.

Status: Assigned to the House Finance Committee

Recommended Position: Support

H.B. 19-1071**Colorado Department of Public Health and Environment Water Quality Control**

This bill eliminates the requirement that the state board of health approve a municipality's entrance into a joint operating agreement with an industrial enterprise for work relating to sewerage facilities; and clarifies that the board of directors of a water conservancy district must comply with the rules of the water quality control commission concerning the manner in which watercourses of the district are used for waste disposal.

Status: Assigned to the Agriculture and Natural Resources Committee

Recommended Position: Support

H.B. 19-1082**Water Rights Easements**

This bill clarifies that a ditch right-of-way, unless expressly inconsistent with the terms upon which the right-of-way was created, includes the right to construct, operate, clean, maintain, repair, and replace the ditch, to improve the efficiency of the ditch, including by lining or piping the ditch, and to enter onto the burdened property for such purposes, with access to the ditch banks, as the exigencies then existing may require, for all reasonable and necessary purposes related to the ditch.

Status: Passed the House. Introduced in the Senate and assigned to the Agriculture and Natural Resources Committee

Recommended Position: Monitor

H.B. 19-1087**Local Public Meeting Notices Posted on Website**

This bill requires a local government to post notices of public meetings required by the state open meetings law on the local government's website. The notices are accessible to the public at no charge. The notices shall be searchable, if feasible, by type of meeting, date and time of meeting, and agenda contents.

Status: Assigned to the Transportation and Local Government Committee.

Recommended Position: Monitor

H.B. 19-1096**Right to Rest**

This bill creates the "Colorado Right to Rest Act", which establishes basic rights for people experiencing homelessness, including but not limited to the right to rest in public spaces, to shelter themselves from the elements,

to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of their property.

The bill prohibits discrimination based on housing status.

The bill creates an exemption of the basic right to rest for people experiencing homelessness for any county, city, municipality, or subdivision that can demonstrate that, for 3 consecutive months, the waiting lists for all local public housing authorities contain fewer than 50 people.

The bill allows the general assembly to appropriate money from the marijuana tax cash fund to the department of local affairs for the purpose of enabling governmental entities that do not meet the exemption requirement to reduce the housing waiting lists to fewer than 50 people for at least 6 months per year.

The bill allows any person whose rights have been violated to seek enforcement in a civil action.

Status: Assigned to the House Transportation and Local Government Committee

Recommended Position: Oppose

H.B. 19-1108

Non-Resident Electors and Special Districts

Section 1 of the bill expands the definition of "eligible elector", as used in reference of persons voting in special district elections, to include a natural person who owns, or whose spouse or civil union partner owns, taxable real or personal property situated within the boundaries of the special district or the area to be included in the special district and who has satisfied all other requirements in the bill for registering to vote in an election of a special district but who is not a resident of the state.

Section 2 prohibits a person from voting in a special district election unless that person is an eligible elector as defined by the bill. The section also requires any natural person desiring to vote at any election as an eligible elector to sign a self-affirmation that the person is an elector of the special district. The bill specifies the form the affirmation must take.

Section 3 specifies procedures by which the eligible elector who is an eligible elector in another state becomes registered to be able to vote in the special district election. This section also contains an affirmation to be executed by the voter upon completing his or her application for registration. The oath or affirmation must be notarized by the elector.

Section 3 also permits any special district organized under the laws of the state, upon passage of a resolution by the board of the district (board), to allow an elector whose eligibility has been established through the procedures specified in the bill to vote for candidates for the board of directors of the special district. The bill makes clear that no person who is designated as an eligible elector is permitted to cast a ballot at any special district election without first having been registered within the time and in the manner required by the bill. The bill only applies to a special district whose board, by resolution, permits an eligible elector who is not a resident of the state to vote in elections of the special district.

A person who is designated as an eligible elector in accordance with the bill is only permitted to vote in an election of the special district with which the person has registered and for a candidate for the board of directors of the special district who is listed on the ballot of the special district with which the elector is registered. A person who is designated as an eligible elector in accordance with the bill is only permitted to vote for candidates for the board and is not authorized to vote for any other candidates or ballot issues or ballot questions that may appear on the regular ballot of the special district.

The bill describes procedures by which an eligible elector who is a resident of another state registers to vote with the special district.

The form used to register an eligible elector under the bill must contain a question asking the elector to confirm that he or she desires to receive a ballot from the special district. Unless the elector has executed the form to indicate that he or she desires to receive a ballot from the special district, the designated election official is not required to send a ballot to the elector. The special district is solely responsible for maintaining the list of nonresident owners of property within the special district who are eligible to vote in an election of the special district.

Section 4 authorizes each special district board to select, in an exercise of its own discretion and by majority vote of the board's voting members, one or more additional board members, each of whom shall serve as a nonvoting member of the board. A member of the board appointed for this purpose must be a person who is a nonresident of the state but is otherwise eligible to cast a ballot in elections of the special district in accordance with the bill. A board with 3 members may appoint no more than one nonvoting member of the board. A board with 5 members may appoint no more than 2 nonvoting members of the board. The term of such board members is 4 years subject to renewal of one or more additional 4-year terms in the discretion of a majority of the voting members of the board. Any board member appointed for this purpose may be removed for cause at any time by a majority of the voting members of the board.

Status: Assigned to the State, Veterans and Military Affairs Committee

Position: Oppose. The Special District Association strongly opposes this bill.

HJR 19-1005

Water Project Eligibility Lists

This bill makes additions, modifications, and deletions to the Drinking Water Project Eligibility List as defined in section 37-95-103 (4.8) and pursuant to section 37-95-107.8 (4)(c), Colorado Revised Statutes.

Status: Passed the House.

Recommended position: Support