

**Colorado Legislative Report
First Regular Session
Seventy-second General Assembly**

Revised March 25, 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: Passed the Senate, introduced in the House and assigned to the Judiciary Committee.

The bill was amended in the Senate to reduce the fines and points to be assessed for violations of the statute.

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. Passed the House and sent to the Governor for signature on March 22.

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: Passed by the Judiciary Committee and referred amended to the Appropriations Committee.

Recommended Position: Monitor

S.B. 19-138

Bonding Requirements for Contractors Entering Into Certain Public-Private Contracts

Under current law, when a person, company, firm, corporation, or contractor (contractor) enters into a contract with a county, municipality, school district, or, in some instances, any other political subdivision of the state to perform work in connection with a project that has specified characteristics, the contractor is required to execute performance bonds and payment bonds. This bill specifies that these bonding requirements apply to all construction contracts situated or located on public real property using public or private money or public or private financing.

Status: Passed the Senate. Introduced in the House and assigned to the Finance Committee. Finance Committee passed and referred to the Committee of the Whole.

Recommended Position: Monitor

S.B. 19-184

Concerning a Grant of Authority to the Colorado Water Institute to Study Potential Uses of Blockchain Technology

This bill directs the Colorado Water Institute at Colorado State University to study the potential uses of blockchain technology, to manage a database of water rights, to facilitate the establishment or operation of water markets and for any other useful purpose in the administration of the institute's powers and duties; and report the results to the general assembly.

Status: Postponed indefinitely by the Agriculture and Natural Resources Committee.

S.B. 19-188

FAMLI Family Medical Leave Insurance Program

This bill creates the family and medical leave insurance (FAMLI) program and the division of family and medical leave insurance (division) in the department of labor and employment to provide partial wage replacement benefits to an eligible individual who takes leave from work:

- To care for a new child or a family member with a serious health condition:
- Because the eligible individual is unable to work due to the individual's own serious health condition or because the individual or a family member is the victim of abusive behavior
- Due to certain needs arising from a family member's active duty service.

Each employee and employer in the state will pay one-half the cost of a premium as specified in the bill, which premium is based on a percentage of the employee's yearly wages. The premiums are deposited into the family and medical leave insurance fund, and family and medical leave benefits are paid to eligible individuals from the fund. The division is established as an enterprise, and premiums paid into the fund are not considered state revenues for purposes of the taxpayer's bill of rights (TABOR).

Status: Passed the Business, Labor and Technology Committee and referred to the Finance Committee.

Recommended Position: Oppose.

This bill is opposed by the Colorado Municipal League, the Special District Association and many business interests.

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: **Signed by the Governor on February 2, 2019.**

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: Passed by the House. Introduced in the Senate, passed by the Judiciary Committee and referred to the Appropriations 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: **Signed by the Governor on March 7, 2019.**

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: **Postponed Indefinitely by 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: **Postponed Indefinitely by 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: **Signed by the Governor on March 7, 2019.**

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: Sent to the Governor on March 18.

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.

The bill was amended in the House to no longer require that meeting notices be posted on a local governments website, but to allow posting of notices on the government's website in lieu of physical posting of notices as currently required.

Status: Passed House on third reading.

Recommended Position: Support

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: Postponed indefinitely by the 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 term

Status: **Postponed indefinitely by the State, Veterans and Military Affairs Committee**

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

H.B. 19-1113

Protect Water Quality From Adverse Mining Impacts

Current law does not address reliance on perpetual water treatment as the means to minimize impacts to water quality in a reclamation plan for a

mining operation.. Section 1 of the bill requires most reclamation plans to demonstrate by substantial evidence an end date for any substantial evidence, an end date for any quality treatment necessary to ensure compliance with applicable water quality standards.

Status: Passed by the House. Passed amended by the Senate. House concurred with Senate amendments and repassed.

H.B. 19-1179

Public Fund Investments

The bill modifies statutes governing the legal investments of public funds as follows:

Allows public entities to invest in the federal agricultural mortgage corporation;

Modifies and standardizes the credit rating requirements for securities invested in by public entities;

Requires rating requirements to first apply to the security being purchased by a public entity and, if there is no such rating, to then apply to the issuer;

Clarifies that negotiable certificates of deposit are a legal investment and not deposits subject to the limitation of the "Public Deposit Protection Act";

Includes the secured overnight financing rate as an allowable index; and Allows public entities to invest in local government investment pools.

Status: Passed third reading in the House

Recommended Position: Monitor

H.B. 19-1183

Automated External Defibrillators In Public Places

The bill defines a public place and encourages any person that owns, operates, or manages a public place to place functional automated external defibrillators (AEDs) in sufficient quantities to ensure reasonable availability for use during perceived sudden cardiac arrest emergencies. The bill requires any public place to accept any gift, grant, or donation of an AED that meets federal standards.

The department shall award a \$75,000 contract to a nonprofit organization for the purpose of acquiring and distributing AEDs to public places. The bill extends good samaritan protections to a variety of persons and entities. The bill repeals an obsolete provision that encouraged school districts to acquire an AED and moves that provision to article 51 of title 25. The bill

also repeals an obsolete provision that provided limited immunity to persons rendering emergency assistance through the use of an AED.

Status: House Committee on Health and Insurance amended and referred the bill to the Appropriations Committee

Recommended Position: Monitor

H.B. 19-1200

Treatment of Domestic Wastewater for Indoor Nonpotable Uses Within a Public Building

In 2018, the general assembly authorized the use of reclaimed domestic wastewater for irrigation of food crops and industrial hemp and for toilet flushing if, at the point of compliance in the water treatment process, the reclaimed domestic wastewater met certain water quality standards.

The bill authorizes the water quality control commission (commission) to adopt rules requiring a point of compliance for disinfection residual related to the treatment process for reclaimed domestic wastewater used for toilet flushing within a building where the general public can access the plumbing fixtures used to deliver the reclaimed domestic wastewater. If the commission adopts the rules, the rules must establish a point of compliance for disinfection residual at a single location where reclaimed domestic wastewater is delivered to the occupied premises and before the water is distributed for use in the occupied premises.

Status: Passed the House. Passed third reading in the Senate.

Recommended Position: Monitor

H.B. 19-1218

Loaned Water for Instream Flows to Improve the Environment

Under current law, the Colorado water conservation board (board), subject to procedural requirements established to prevent injury to water rights or decreed conditional water rights, may use loaned water for instream flows if the loaned water is used for preserving the natural environment of a stream reach that is subject to a decreed instream flow water right held by the board. The bill expands the number of years within a 10-year period that a loan may be exercised from 3 years to 5 years and allows a loan to be renewed for up to 2 additional 10-year periods.

The bill also expands the board's ability to use loaned water for instream flows to allow loans to:

Improve the natural environment to a reasonable degree pursuant to a decreed instream flow water right held by the board; or

Preserve or improve the natural environment to a reasonable degree for a stream reach for which the board does not hold a decreed instream flow water right.

In considering whether to accept one of the new types of loans authorized by the bill, the board must evaluate the proposed loan based on a biological analysis performed by the division of parks and wildlife. The board is required to promulgate rules regarding the necessary steps for reviewing and accepting such a loan.

Status: Assigned to the Energy and Environment Committee

Recommended Position: Oppose unless amended

H.B. 19-1231

New Appliance Energy and Water Efficiency Standards

The bill updates and adopts standards for water efficiency and energy efficiency that apply to a list of consumer and commercial appliances and other products. The standards are based on state standards, federal Energy Star and WaterSense specifications, and industry standards in most cases or, where a standard is not incorporated by reference, the standard is specified by statute.

The standards apply to new products sold or installed in Colorado and are phased in over a period of 3 years, with general service lamps covered beginning in 2020, air compressors and portable air conditioners covered beginning in 2022, and all other listed products covered beginning in 2021. The bill also keeps in place the water efficiency standards on certain products that were added to the Colorado statutes in 2014. The sale of a noncomplying product after the effective date of the applicable standard is defined as a deceptive trade practice under the "Colorado Consumer Protection Act".

The executive director of the department of public health and environment is directed to collect and publish the standards that are incorporated by reference. The executive director is also authorized, but not required, to adopt rules incorporating more recent versions of standards or test methods in order to maintain or improve consistency with other state or federal agency standards, subject to a one-year grace period between adoption and enforcement of any new or amended standards.

Status: Assigned to the Energy and Environment Committee

Recommended Position: Monitor

H.B. 19-1257

Voter Approval to Retain Revenue for Education and Transportation

Beginning with the 2018-19 fiscal year, the bill authorizes the state to annually retain and spend all state revenues in excess of the constitutional limitation on state fiscal year spending that the state would otherwise be required to refund. The bill is a referendum that will be submitted to the voters at the statewide election held on November 5, 2019, and approval of the ballot title at the election constitutes a voter-approved revenue change to the constitutional limitation on state fiscal year spending.

If approved, an amount of money equal to the state revenues retained under this measure is designated as part of the general fund exempt account. The general assembly is required to appropriate or the state treasurer is required to transfer this money to provide funding for: Public schools; higher education; and roads, bridges, and transit.

Legislative council staff will be required to specify this retained amount and its associated uses in an annual report that it currently prepares related to revenue retained and spent under referendum C. In addition, the state auditor is required to contract with a private entity to annually conduct a financial audit regarding the use of the money that the state retains and spends under this measure.

Status: Assigned to the Finance Committee

Recommended Position: Monitor

H.B. 19-1258

Allocate Voter Approved Revenue to Education and Transportation

The bill is contingent on voters approving a related referred measure to annually retain and spend state revenues in excess of the constitutional spending limit. If the measure passes, in years when the state retains and spends revenue under the authority of the measure there will be additional revenue in the general fund exempt account (account).

Section 1 of the bill requires 1/3 of this money in the account to be allocated to each of the purposes approved by voters, which are: Public schools; higher education; and roads, bridges, and transit. The general assembly is required to appropriate the money for public schools and higher education for the state fiscal year after the state retains the revenue under the authority of the voter-approved revenue change, with an exception for the state fiscal year 2018-19. The money appropriated for public schools must be distributed on a per pupil basis and used by public schools only for nonrecurring expenses for the purpose of improving classrooms, and it may not be used as part of a district reserve.

The state treasurer is required to transfer the remaining 1/3 of the money to the highway users tax fund (HUTF) after the state treasurer receives a

report certifying the state's TABOR revenues (report). Section 3 clarifies that the report must include the money that the state keeps and spends as a result of the 2019 measure, and that this amount must be reported separately from the referendum C money in the account.

Under section 4 the money the state treasurer transfers to the HUTF is allocated 60% to the state highway fund, 22% to counties, and 18% to cities and incorporated towns. Under section 5 no more than 90% of the money allocated to the state highway fund may be expended for highway purposes or highway-related capital improvements and at least 10% must be expended for transit purposes or for transit-related capital improvements

Section 2 includes a conforming amendment to ensure that the allocation for the referendum C money does not apply to any new revenue in the account as a result of the 2019 voter approval.

Status: Assigned to Finance Committee

Recommended Position: Monitor

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

