



COLORADO
MUNICIPAL
LEAGUE

NEWSLETTER

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SURVEY IDENTIFIES CHALLENGES FOR COLORADO MUNICIPALITIES

Unfunded state mandates, public liability weigh on cities & towns

By Rachel Woolworth, CML municipal research analyst

Colorado Municipal League's 2024 State of Our Cities and Towns survey, administered from October to November 2023, explored the fiscal and operational impacts of public liability from claims, lawsuits, and unfunded state mandates on municipalities across Colorado. Rising insurance premiums and state mandates related to technology accessibility, body-worn cameras for law enforcement, and wastewater quality emerged as the primary budgetary challenges for cities and towns.

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Empowered cities and towns, united for a strong Colorado

EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO

CML Executive Board fills vacancies

By Kevin Bommer,
CML executive director

Colorado Municipal League (CML) Executive Officers interviewed five applicants for two vacancies in the Large Municipality category on the CML Executive Board on Jan. 16. The officers made two recommendations that were approved by the board. The League welcomes and congratulates James Marsh-Holschen, a councilmember from the City and County of Broomfield, and Joshua Rivero, a councilmember from the Town of Parker.

Marsh-Holschen grew up in Spokane, Washington, before attending law school in Washington, D.C., where he met his wife Alexis, who was born and raised in Broomfield. After graduating in 2013, they settled in Broomfield. He works as an anti-money laundering analyst for a financial services corporation. Marsh-Holschen has significant experience in public policy, informed by various community roles including but not



James Marsh-Holschen



Joshua Rivero

limited to serving on Broomfield City Council.

Rivero is a graduate of Ponderosa High School and Metropolitan State University of Denver, where he studied western history. He served eight years on the Parker Town Council before being reelected in 2022. In Parker, he is the owner of Fika Coffee House with locations in Old Town and Idyllwilde. Rivero has also served as an active member of the CML Policy Committee.

Both terms began immediately and will run through the board election in June at the CML Annual Conference.

CML EVENT

LEGISLATIVE WORKSHOP

This annual day-long workshop is your opportunity to discuss the key municipal issues before the General Assembly, CML's legislative program, and what you can do to influence the legislative process. CML's 2024 Legislative Workshop will be held Feb. 15 at History Colorado in Denver. Register online at <http://tinyurl.com/4dmnsfxj>.



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CELEBRATE WITH CML

CML wants to hear about your community's successes. Tell us about a grant you've won, water tank that's finally finished, or anything else you're excited about! Email CML Publication & Design Specialist Alex Miller, amiller@cml.org.



U.S. Supreme Court to hear municipal camping ban case

The U.S. Supreme Court announced it would hear the *City of Grants Pass, Oregon v. Johnson* case out of the federal Ninth Circuit Court of Appeals on Jan. 12. In the underlying case, which followed a similar case from the same circuit, *Martin v. City of Boise*, the Ninth Circuit held that it was a violation of the

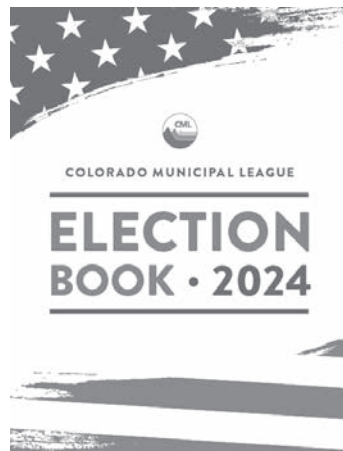
Eighth Amendment's prohibition on cruel and unusual punishment for the city to enforce its anti-camping ordinance against homeless individuals when the homeless population exceeds the capacity of local shelters. While these decisions have not been controlling in Colorado, the Supreme Court's decision

will provide clarity for local governments about the circumstances under which a municipality can enforce a ban on public camping against homeless individuals. We anticipate oral argument will take place this spring with a decision issued by the end of June.

CML PUBLICATIONS

ELECTION BOOK 2024

CML is pleased to announce the publication of a new edition of our *Election Book*. The 2024 *Election Book* is an essential guide to running municipal elections. It is designed to assist municipal clerks in managing elections in towns and cities, both statutory and home rule. Thoroughly updated for 2024, CML's *Election Book* will answer your questions about regular and special elections, the Fair Campaign Practices Act, signature verification, process for referendum and recall elections, and much more. The *Election Book*, in print and e-book editions, is available now in the CML Bookstore, <http://tinyurl.com/3yavwy7s>.



Commission on Property Tax gets down to work

The 19-member Commission on Property Tax created during last year's special session has held two meetings. The commission is tasked with identifying sustainable property tax structures that protect property owners while maintaining stability for local governments and public schools. Thus far, the commission has heard presentations from the County Assessors Association, the Lincoln Institute for Land Policy, and advocates promoting the implementation of a land value tax system. The committee will continue to meet twice a month through March 15. The commission's final recommendations are due to the governor and General Assembly at that time. Interested parties may attend commission meetings in person or listen to the proceedings and recordings on the General Assembly's website, <http://tinyurl.com/yc4fy5n6>. The committee post information about its activities on its website, <http://tinyurl.com/mr2c83f2>.

UPCOMING WEBINARS

CML MUNICIPAL ELECTION SERIES: CANVAS, RECOUNTS, AND FINAL ELECTION QUESTIONS

Thursday, March 14

During this webinar, participants will learn information and tips on what happens after the polls close, including recounts and canvassing the vote. Additionally, you'll have a chance to ask your final election questions. While intended for clerks whose municipalities will be having elections in spring 2024, all clerks are welcome to participate. Co-hosted by CML, Colorado Municipal Clerks Association, and CIRSA. Register at <http://tinyurl.com/5xarvmsb>.

CML MUNICIPAL ELECTION SERIES: ELECTION DEBRIEF AND TALES TO TELL

Thursday, May 9

During this webinar, a wide-ranging conversation will engage attendees in an election debrief, provide insights, and share stories covering what worked, what did not, and what clerks wished they had known ahead of the elections. While intended for clerks whose municipalities will be having elections in spring 2024, all clerks are welcome to participate. Co-hosted by CML, Colorado Municipal Clerks Association, and CIRSA. Register at <http://tinyurl.com/mtpv7eep>.



MUNICIPAL GRANTS & FUNDING OPPORTUNITIES



CLEAN AIR PROGRAM

The Colorado Energy Office (CEO) recently opened its second round of funding from the Clean Air Program (CAP), a competitive grant program that funds industrial and manufacturing air pollution reduction projects in Colorado. Manufacturers, dairies, energy producers, wastewater treatment operators, landfill operators, local and tribal governments, carbon management project developers, and public-private partnerships are eligible to apply for funding. CAP will host an informational webinar covering additional details about the grant program on Jan. 25 at 9 a.m. MST. More details about the program and the application materials are available online, <http://tinyurl.com/dc7nhs3t>.

SOLAR GRANTS FROM COLORADO ENERGY OFFICE

The Colorado Energy Office will open the Automatic Permit Processing for Solar grant application on April 2, which provides funding to local and tribal governments to reimburse expenses incurred while adopting an automated, online solar permitting platform, such as SolarAPP+ or Symbium. These platforms can instantly process the majority of residential solar permits, saving governments staff time and capacity while ensuring code compliance. Eligible grant costs include in-house staff time or training, IT or consultant time, training of installers or developers, maintenance or subscription costs up to three years, and hardware or equipment. Grant maximums will range from \$40,000 to \$100,000 depending on jurisdiction size. More information is available at <http://tinyurl.com/96aae88y>.

BYRNE STATE CRISIS INTERVENTION PROGRAM

The Colorado Division of Criminal Justice Office of Adult and Juvenile Justice Assistance opened a new grant program for applications Jan. 8, for which various local government agencies are eligible. The funding opportunity is from a Department of Justice, Bureau of Justice Assistance, grant program called the Byrne State Crisis Intervention Program (Byrne SCIP). Byrne SCIP focuses on gun violence and the programs and initiatives that target the risk factors that are likely to lead to this kind of violence. The purpose of Byrne SCIP is to provide funding for the creation and/or implementation of state crisis intervention court proceedings/specialized court-based programs (e.g. drug, mental health, and veteran's treatment courts), extreme risk protection order programs, and related gun violence reduction programs/initiatives. More information is available online, <http://tinyurl.com/5n7xzvp8>.

PROJECT ACCELERATOR

Applications are now open for the next cycle of Project Accelerator 3 focusing specifically on Colorado communities. Project Accelerator provides pro-bono support to cities, water agencies, and other water service providers to jumpstart sustainable, innovative or equitable water projects. Project Accelerator provides free, high-value capacity and expertise that enables participants to advance affordable, community-oriented water solutions. The deadline to apply is Feb. 2. More information is online, <http://tinyurl.com/yc52duah>.

\$1.5 BILLION AVAILABLE IN RAISE GRANTS

The U.S. Department of Transportation (U.S. DOT) is accepting applications for \$1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program for 2024. The popular program helps communities around the country carry out projects with significant local or regional impact. RAISE discretionary grants help project sponsors at the state and local levels, including municipalities, Tribal governments, counties, and others complete critical freight and passenger transportation infrastructure projects. The eligibility requirements of RAISE allow project sponsors to obtain funding for projects that may be harder to support through other U.S. DOT grant programs. More information is available online, <http://tinyurl.com/mtzdzztc>.

SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM

The Safe Streets and Roads for All (SS4A) grant program funds regional, local, and Tribal initiatives through grants to prevent roadway deaths and serious injuries. The program supports the development of a comprehensive safety action plan that identifies the most significant roadway safety concerns in a community and the implementation of projects and strategies to address roadway safety issues. Applications for the next round of SS4A grants are anticipated to open in February 2024. More information is online, <http://tinyurl.com/44kubzdn>.

RESEARCH CORNER

COLORADO SEES GROWTH IN HOMELESSNESS

Data visualization by RACHEL WOOLWORTH, CML municipal research analyst, and ALEX MILLER, CML publication & design specialist

Homelessness is on the rise nationwide and Colorado is no exception, says the U.S. Department of Housing and Urban Development’s annual homelessness assessment report to Congress.

The report utilizes data collected during a single point-in-time (PIT) count in late January 2023. The PIT count offers a snapshot of people experiencing sheltered homelessness (emergency shelters, transitional housing programs, or safe havens) and unsheltered homelessness (places not meant for habitation) on a single night.

The 2023 PIT count marked the most people experiencing homelessness on a single night since reporting began in 2007. Between 2022 and 2023, the number of people experiencing homelessness increased in 41 states and the District of Columbia.

During 2023, the number of people experiencing homelessness across the U.S. rose by 12%. Colorado experienced a 39% increase in people experiencing homelessness from 2022 to 2023, the fourth highest increase of any state and more than triple the national average.

Increases in nationwide homelessness were seen across various population types. Homelessness among people in families with children rose by 16%, homelessness among unaccompanied youth increased by 15%, and homelessness among individuals experiencing chronic patterns of homelessness rose by 12%.

The most common demographic characteristics attached to people experiencing homelessness across the nation included: aged 35 to 55 (46.5%), male (68%), and white (57%). The number of transgender or gender questioning persons experiencing homelessness across the U.S. increased by 31% throughout 2023.

Download the full report at <http://tinyurl.com/3ch4mu3m>.

14,439

Coloradans experienced homelessness during the 2023 PIT count (less than 1% of the population)

39%

increase in number of Coloradans experiencing homelessness from 2022 to 2023

25%

of homeless Coloradans belong to families with children

69%

increase in experiences of family homelessness in past year

The **third largest** state increase in the nation

4%

of homeless Coloradans identified as unaccompanied youth

7%

of homeless Coloradans identified as veterans

39%

increase in experiences of veteran homelessness from 2022 to 2023, the **third largest** state increase in the nation

28%

of homeless Coloradans experienced chronic patterns of homelessness

15%

increase in experiences of chronic homelessness from 2022 to 2023, the **fifth largest** state increase in the nation

FROM PAGE 1

Municipalities identified affordable housing as the top concern heading into 2024, an issue that also topped the list in 2021 and 2022. Unfunded street maintenance ranked second while inflation, the top challenge for municipalities in 2023, dropped to third on the list.

Most municipalities, regardless of geographic region or population size, reported their local economy performing similarly in 2023 to 2022. And though most cities and towns said municipal revenues improved or stayed the same when compared to last year, survey data shows that municipal revenue growth has been on the decline across the state since 2021.

The 2024 report features stories on small towns, such as Yampa and Parachute, taking action to confront rising insurance costs, Manitou Springs' efforts to gain compliance with state technology accessibility standards, Lone Tree's creative approach to law enforcement accountability laws, and Alma and Creede's attempts to meet state wastewater quality regulations.

ECONOMIC DATA

- 44% of respondents reported their local economy performing about the same in 2023 as in 2022
- 38% of respondents reported their municipal revenues were about the same in 2023 as in 2022 while 37% reported their revenues as much or somewhat better
- Municipalities located in the Front Range and those with over 25,000 people were more likely to report revenue improvements than mid-sized and small cities and towns
- Investment and interest income, charges for services, property taxes, and sales and use taxes emerged as the top increased revenue sources for responding municipalities

RIISING COSTS OF INSURING MUNICIPAL OPERATIONS

- Survey data shows that the larger a municipality, the more likely the city or town is to hold more lines of insurance (excluding those that remain self-insured)



- More than 50% of respondents reported price increases of 10% or more for law enforcement liability, property, general liability, and auto liability
- Respondents identified law enforcement liability as incurring the greatest cost increase in recent years
- About 70% of respondents reported not taking any action in response to increasing insurance costs in recent years due to lack of time to shop around, among other reasons

PUBLIC ENTITY LIABILITY

- The majority of responding municipalities received, on average, one to 10 notices of claims annually throughout the last five years
- On average, less than one lawsuit was brought against responding municipalities throughout the last five years
- Respondents identified law enforcement lawsuits as the most common type of litigation filed against them. Large cities were the most likely to encounter law enforcement related lawsuits.
- 86% of respondents said legal costs have not affected their ability to provide municipal services in recent years

COMPLIANCE WITH UNFUNDED STATE MANDATES

- 5% of respondents reported awareness of the financial impacts of

unfunded state mandates in recent years

- The larger the municipality, the more awareness a city or town has of such mandates. One hundred percent of large cities reported awareness of unfunded state mandates.
- Respondents reported updating technology, increasing staff training, and relying on outside vendors to perform services to comply with unfunded state mandates
- More than 50% of respondents reported relying on existing funds to pay for such actions
- 44% of respondents reported state mandates around technological accessibility impacting their finances
- Municipalities estimate compliance will cost between \$5,000 and \$800,000 in total
- 26% of respondents reported state mandates around body-worn cameras for law enforcement impacting their finances
- Municipalities estimate compliance will cost between \$17,000 and \$2.3 million annually
- 23% of respondents reported state regulations around wastewater quality impacting their finances
- Municipalities estimate compliance will cost between \$800,000 to \$50 million in total

The full report can be viewed online, <http://tinyurl.com/5cabp27s>.

CML LEGAL CORNER



Harnessing the benefits and managing the risks of artificial intelligence in municipal government

By Sarah Walker, CML law clerk

When ChatGPT was first released to the public in 2022, many people were awed by the capabilities and potential that artificial intelligence (AI) offers. Since then, the use of AI in the private and public sectors has increased exponentially, but significant legal questions remain. Municipalities now face the challenge of harnessing this technology while addressing the legal and ethical concerns that it raises.

On one hand, municipalities can use generative AI, which is a type of AI that generates content like text, images, and other media, to streamline processes and increase governmental efficiency. Tasks like drafting documents and presentations can be supported using AI software like ChatGPT. AI can also enhance citizen engagement. For example, some municipalities have setup AI-powered chatbots that increases governmental responsiveness to citizen inquiries, provided adequate disclosures of the use of AI technology are made.

However, the use of AI may reduce the personal connection that local government provides. Moreover, there are potential risks that municipalities must address to avoid potential legal problems and to use AI ethically.

AI IN JUDICIAL PROCEEDINGS

Just because AI-generated content sounds coherent does not mean that it is accurate. Concerns with the reliance on AI have been highlighted in the legal world, as lawyers have faced sanctions for filing AI-generated court documents containing fake quotes and citations from non-existent cases. In one of the first cases to grapple with this issue, *Mata v. Avianca, Inc.*, _ F.3d _ (S.D.N.Y.

2023), a New York federal court noted that “there is nothing inherently improper about using a reliable artificial intelligence tool for assistance.” However, lawyers are ultimately responsible for ensuring that the documents they file are accurate. At least one Colorado lawyer has been disciplined for a legal brief containing fake citations.

Situations like the one at the center of *Mata* would embarrass both the lawyers and their clients and may violate an attorney’s obligations to their client and the profession. The submission of fake information in court documents damages the reputation of the judicial system. Avoiding the erosion of public trust and confidence should be a priority for all lawyers, especially those representing local governments. To avoid these sanctions and embarrassment, lawyers must be diligent to review all information that they obtain from AI tools.

Municipal courts may be interested in establishing rules regarding the use of AI, although Colorado’s courts appear to not have addressed the issue yet. In one Texas district court, lawyers must certify that either they did not use AI to draft their filing, or all AI generated content was reviewed by a human. The U.S. Fifth Circuit Court of Appeals has also proposed a similar rule. No Colorado court has proposed rules like these, but the Colorado Supreme Court is considering changes to the Colorado Code of Judicial Conduct in response to AI use.

AI IN MUNICIPAL PROCEEDINGS

The same risks of relying on AI are present in everyday municipal matters. In quasi-judicial proceedings or administrative hearings, similar principles apply with regard to evidence, candor to the

tribunal, due process, and bias. Municipalities might use AI for tasks such as research, summarizing long documents, and processing data sets. Officials may hope use AI to create arguments or evaluate issues presented to them.

However, the use of AI in this way could introduce risks that could undermine the final determination in such proceedings. AI technology is developed by humans and uses human-generated data, meaning it has the potential to reflect biases and judgments that would not properly be considered in certain matters.

Further, AI technology may not be able to address local issues and the specific considerations of a matter that are critical to ensuring a fair outcome. The responsibility to make these important decisions falls squarely on municipal officials and cannot be passed off to advanced technology.

SECURITY CONCERNS

Municipalities also should be aware of the risk of disclosure of privileged information or private personal information when using AI. Information included in the prompt or questions is repeated somewhere in the generated content. This means if private information is included in the prompt, then it is being transmitted to an outside entity and may be used for other purposes. Further, there is a possibility that the private information will be included in the output. Some municipalities have created a blanket ban on inputting any private or sensitive information into AI software.

This column is not intended and should not be taken as legal advice. Municipal officials are always encouraged to consult with their own attorneys.



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Featured in this issue:

- Results of CML's 2024 State of Our Cities & Towns survey
- Two new faces on CML Executive Board
- Research Corner: Colorado sees growth in homelessness
- Legal Corner: Harnessing the benefits and managing the risks of artificial intelligence

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