



COLORADO
MUNICIPAL
LEAGUE



NO
SB26-176



“The No Kings Act”

WHAT DOES THE BILL DO?

SB26-176 creates a new state cause of action against public employees in state courts for alleged violations of an individual’s right under the U.S. Constitution, also referred to as a converse 1983 action. While the stated intent is to provide a cause of action against federal officials, the proposal applies to all public employees and elected officials. And while these new claims are intended to be similar to federal Section 1983 claims, the bill can’t guarantee that courts will treat it the same. There are numerous ways in which these new claims could diverge, resulting in increased litigation, costs, and liability. The risk to public entities, public servants, and the state courts is simply too great.

WHY YOU SHOULD VOTE NO

The converse 1983 cause of action is an untested and likely unviable legal theory that is unlikely to result in accountability for federal officials. Instead, state and local entities and officials will bear all the burden and risk of these new state theories. These consequences are very real for the thousands of dedicated municipal public servants, and the bill doesn’t do enough to protect them.

- Converse 1983 is a novel and untested legal theory that is unlikely to hold up before the U.S. Supreme Court with regard to federal officers, leaving only state and local officials subject to these claims.
- Federal officials will be able to move these cases to federal courts while state and local employees and elected officials could be stuck in state courts that are not experienced in complicated civil rights litigation.
- Public employees and elected officials have no guarantee that all of the substantive and procedural protections associated with Section 1983 litigation will follow this new cause of action, opening up the state and local governments to greater risk and uncertainty than faced under existing law.
- Insurance costs are likely to increase due to expanded liability exposure, greater litigation uncertainty, and higher defense costs.

YOUR NO VOTE IS RESPECTFULLY REQUESTED

CML respectfully requests a NO vote on SB26-176. Local taxpayers and your city and town officials and employees aren’t test subjects for this novel and extremely uncertain theory. Federal officials may be the target of the bill, but the bill is unlikely to protect anyone. Your cities and towns will be the ones to pay the price.

CONTACT

Owen Brigner | CML legislative & policy advocate | 419-786-9703 | obrigner@cml.org