



2023 Legislative Update

Presented by the CML Advocacy & Legal Teams

CML Lobbyists

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Issues Include: natural resources and environment; building codes; elections; governmental immunity; oil and gas; open meetings/open records; severance tax/FML/energy impact; water and wastewater/water quality; and wildfire.

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Issues Include: Employment & labor, economic development, taxation, lottery & gaming, municipal debt & finance, telecom & broadband, utilities.

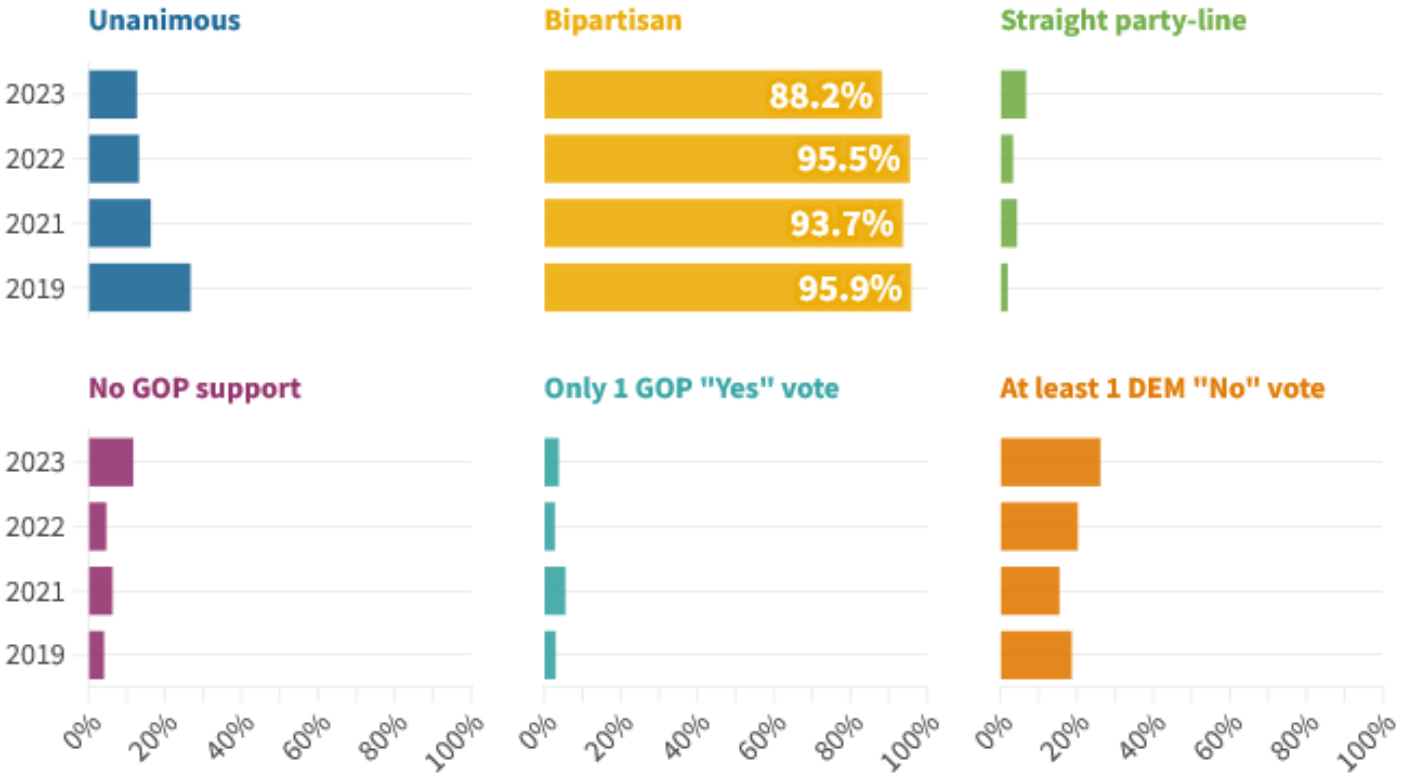
Fast Facts

- The first regular session of the 74th Colorado General Assembly adjourned sine die on May 8th, 2023.
- During the 120-day legislative session, 617 bills were introduced, 484 bills passed the General Assembly, and 474 became law.
- Governor Polis vetoed 10 bills.
- CML followed 288 bills
 - CML supported 62 bills
 - CML opposed 43 bills



Voting on Colorado bills that became law, 2019-2023

There were fewer unanimous and bipartisan votes on bills that became law in 2023 than in recent years, according to a Colorado Sun analysis of voting patterns in the state legislature. There were also more bills this year that received no Republican support and more measures that had at least one Democrat voting against them. (The Sun didn't conduct this analysis in 2020 for the pandemic-shortened legislative session that year.)



Source: Colorado General Assembly



Accessibility

What the state and local government's roles and responsibilities around providing accessibility for people with disabilities was a major topic of discussion this session. We expect to see more legislation next session on this topic as well.

Bills:

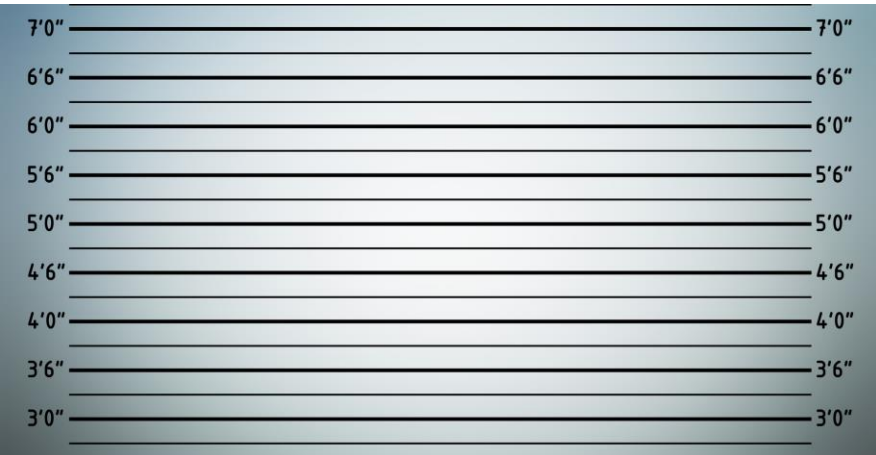
- SB23-244 Technology Accessibility Cleanup
- HB23-1032 Remedies for Persons with Disabilities
- HB23-1296 Create Task Force to Study Rights for Persons with Disabilities





HB23-1042, Admissibility of Juvenile Statements

- The act changes the admissibility of juvenile statements made in custodial agreements when law enforcement/agent employs the use of deception.





SB23-254, Search Warrants

- National coverage and response to No-knock warrants
- This bill will require compliance training related to the hours that warrants are executed, law enforcement identification, and knock-and-announce procedures.

SB23-188, Protection for Accessing Reproductive Health Care

- Government employees cannot use any time or resources to engage in out-of-state investigations;
- Peace officers cannot arrest or participate in the arrest of a person seeking healthcare under the act;
- Prohibits search warrants to search and seize property that relates to an investigation into a legally protected healthcare activity;
- Prohibits the issuance of a summons;
- Prohibits ex parte orders for wiretapping or eavesdropping into a legally protected healthcare activity;
- Declares that access to reproductive healthcare is a matter of statewide concern and that, for zoning and land use planning, reproductive health facilities fall within the meaning of medical office use, medical clinic use, healthcare use, and other facilities that provide outpatient services.



Criminal Justice

- HB23-1155, Advisement During Custodial Interrogation
- HB23-1100, Restrict Government Involvement in Immigration Detention
- SB23-075, Deletion of Child's Name from Criminal Justice Records
- HB23-1167, Reporting of Emergency Overdose Events

Criminal Justice

- HB23-1043, Emergency and Continued Placement with Relative or Kin
- HB23-1199 Forensic Medical Evidence Process Improvement
- SB23-148, Illegal Drug Laboratory Property and Certification





Building Codes

Bills:

- **HB23-1057 Amenities for all Genders in Public Buildings**
- **SB23-166 Establishment of a Wildfire Resiliency Code Board**
- **HB23-1240 Sales Use Tax Exemption Wildfire Disaster Construction**

Housing

HOUSING

Colorado Democrats are turning 2023 into the year of housing. But should the state wade into local land decisions?

Lawmakers may limit local land-use directives to promote housing density. Also on the docket: rent control, eviction limitations and transit-oriented development.



Elliott Wenzler

4:12 AM MST on Feb 12, 2023



The 2023 legislative session saw around 30 bills that addressed housing.

What is the solution to creating more affordable housing?

- Tenants' rights and progressive housing policy *versus* blanket increase of housing supply (SB23-213).

Housing: Bills of Note

- **HB23-1255 Regulate Local Housing Growth Restrictions**
 - Aimed to explicitly limit the growth of population
 - Broad definitions of “land use law” and “anti-growth law”
 - Still allows for temporary, non-renewable moratoria on development
- **HB23-1304 Prop 123 Affordable Housing Programs**
 - Makes technical and some substantive changes to Prop 123
 - Allows a local government to petition to change affordability standard
 - Clarifies that all units funded through the programs count towards growth

Housing: SB23-213 Land Use


Dynamics at play

- Differences between the Senate version and House version were insurmountable.
- Strong, grassroots activism from local governments was unified.
- The clock was a huge factor.

What's Next?

- Indication is that there will be a new version next year.
- What can we do in the meantime?

Why Jared Polis' land-use bill imploded on the final day of Colorado's legislative session

 By Andrew Kenney · May 24, 2023, 4:00 am



Senate Bill 23-111, Public Employee Workplace Protections

- CDLE Rulemaking will be very important to follow and participate in
- Employees are protected to:
 - Discuss or express the employee's views regarding representation, workplace issues, or rights under the act;
 - Engage in protected, concerted activity for the purpose of mutual aid or protection;
 - Fully participate in the political process while off duty and not in uniform (including speaking with their governing body on terms and conditions of employment and any matter of public concern and engaging in political activities like private citizens); and
 - Organize, form, join, or assist an employee organization (or refrain from doing so).

Senate Bill 23-172, Protecting Opportunities and Workers Rights

- Definition of Harassment- no longer includes "severe and pervasive" standard
- Requires that employers preserve certain personnel or employment records made, kept, or received by the employer for at least five years after the date it was made or received or the date of the personnel action or resolution of a charge of discrimination or lawsuit
- Conditions affirmative defenses to harassment claims on the employer having a harassment prevention program, as defined through the act, that the employee failed to use
- Requires employers to maintain a repository of written or oral complaints of discriminatory or unfair employment practices including the date of the complaint, the complaining party's identify, if know, the alleged perpetrator's identity, and the substance of the complaint. These are not public records under the Colorado Open Records Act but are also deemed personnel records not subject to inspection;

Senate Bill 23-105, Ensure Equal Pay for Equal Work

- “Career development,” “career progression,” “job opportunity,” and “vacancy” are defined to clarify job posting requirements
- No longer required to post career progression jobs
- Extends the period of back pay relief from 3 to 6 years, but does not modify the 2-year statute of limitations
- Reasonable efforts for announcing who is filling a job vacancy within 30 days to employees that will work with that person

Senate Bill 23-053, Restrict Governmental Nondisclosure Agreements

- Prohibits public employers from requiring non-disclosure agreements as a condition of employment or continued employment and declares such provisions to be unenforceable and against public policy
- Includes substantial exceptions for provisions necessary to prevent the disclosure of certain information
- An employer that enforces or attempts to enforce a provision deemed against public policy by a court is liable for attorneys fees and costs in defending an action



Employment Bills

- HB23-1006 Employer Notice of Income Tax Credits
- HB23-1045 Employee Leave for Colorado National Guard Service
- SB23-017 Additional Uses Paid Sick Leave
- SB23-058 Job Application Fairness Act

Elections

Bills:

- **HB23-1245 Campaign Practices for Municipal Elections**
 - Establishes the maximum contribution a person can make to a candidate for a municipal office.
 - Establishes new reporting deadlines for populations over 1,000.
 - Establishes new retention requirements for campaign finance reports.
- **HB23-1185 Requirements for Recall Elections and Vacancies**
 - Act clarifies how a vacancy will be filled if there are not enough members of the governing body to establish a quorum
 - Requires that members of a municipal recall committee be registered electors of the municipality.
 - Makes a number of additional technical changes to petition requirements and ballot requirements.
- **SB23-276 Modifications to Laws Regarding Elections**



Oil & Gas

- SB23-285 Energy & Carbon Management Regulation in Colorado
 - The act changes the name of the COGCC to the Energy and Carbon Management Commission.
 - In addition to oil and gas, the act gives the Energy and Carbon Management Commission has the authority to regulate deep geothermal and natural gas storage facilities.



Municipal Courts

- HB23-1182: Remote Public Access to Criminal Court Proceedings
- HB23-1222: Cases of Domestic Violence in Municipal Court
- HB23-1132: The Court Data Sharing Task Force



Open Records

- **SB23-286 Access to Government Records**
- The act makes substantive changes around the disclosure of sexual harassment complaints made against elected officials and allows the denial of specific records for purposes of future electronic communications with that elected official.
- The act makes additional procedural changes around CORA record inspection and transmittal fees.



SB23-290, Natural Medicine Regulation and Legalization

- Voters approved the supervised use of "natural medicine" at state-licensed facilities by individuals 21+ and decriminalized the personal use of natural medicine by individuals 21+ under Prop 122 .
- Local governments are authorized to regulate the time, place, and manner of healing centers.
- Natural medicine is not treated the same as marijuana.
- What's to come:
 - Licensing structure through DORA and DOR
 - Rulemaking with the 15-member Natural Medicine Advisory Board
 - Forthcoming legislation?



Regulated Substances

- HB23-1061, Alcohol Beverage Retail Establishment Permit
- SB23-264, Alcohol Beverage Festival Participation
- HB23-1279, Allow Retail Marijuana Online Sales



Sustainability



HB23-1233 Electric Vehicles and Parking Requirements

- Substantive changes to HB22-1362, with regards to EV charging requirements in multifamily buildings
- Preemption of local control in favor of statewide requirements
- Colorado Energy Office priority



HB23-1285 Store Use of Carryout Bags & Sustainable Products

- Technical fixes to the bag fee enacted by HB21-1162

Senate Bill 23-303 Reduce Property Taxes And Voter-approved Revenue Change

- Proposition HH
- \$50,000 reduction in value for the 2023 tax year and a \$40,000 reduction in value for the 2024 tax year.
- The act creates a distinction between owner-occupied and non-owner-occupied housing, starting in the 2025 tax year, which will result in slightly higher property taxes for non-owner-occupied homes
- Starting in 2023, growth in revenue limits for local property taxes (except for school districts and home rule cities and counties) is limited to the rate of inflation in the Denver-Aurora-Lakewood CPI (based on the most recently published estimate of inflation for the prior calendar year), over the prior year's property tax revenue. Local governments can exceed the cap if the governing body, on an annual basis, votes to do so following notice, a public hearing, and public comment.
- The ballot question increases the state's TABOR cap, thereby reducing TABOR refunds. This revenue will be used to partially backfill the property tax revenues that local governments will lose out on as a result of the various reductions that will go into effect
- Senior Homestead Property Tax Exemption is increased to \$140,000 starting in the 2025 tax year and the act makes the exemption portable.
- House Bill 23-1311- TABOR refunds in equal amounts instead of six-tier system

An illustration on a solid red background. On the left, a hand is shown from the wrist up, wearing a white shirt cuff, and is pressing the number '8' on a black calculator. The calculator has a yellow display screen and various colored buttons (blue for numbers, yellow for functions, and a red power button). To the right of the calculator, another hand is holding a white document with several horizontal grey lines representing text. A white, torn-edge shape overlaps the bottom right of the calculator and the document, containing the title and list.

Tax Bills

- Senate Bill 23-143, Retail Delivery Fees
- Senate Bill 23-108, Allowing Temporary Reductions in Property Tax Due
- Senate Joint Resolution 23-004, Uniform Sales and Use Tax on Construction Material

Miscellaneous

HB23-1306 Public Use of Elected Officials' Social Media

- Despite two pending US Supreme Court cases on this issue, the act attempts to protect elected officials who block people or delete comments on “private social media” (not supported by public resources). It doesn’t disturb First Amendment protections so we wouldn’t suggest relying on this if you’re discussing any public business even on a private account until the Supreme Court rules in 2024.

SB23-200 Automated Vehicle Identification Systems

- Expands the allowable use of systems.
- Cities should note some requirements if you choose to install new systems.

SB23-274 Water Quality Control Fee-setting by Rule

- The act changes authority for setting drinking water fees, requiring CDPHE’s Water Quality Control Commission to set the fees rather than the legislature.

Miscellaneous

SB23-175 Financing of Downtown Development Authority Projects

SB23-183 Local Government Provision of Communication Services



THANK YOU

Questions? Please always feel free to reach out.

For a complete list of all 2023 laws that impact municipalities see CML's Laws Enacted publication.

<https://www.cml.org/home/advocacy-legal/Colorado-Laws-Enacted>



THANK YOU FOR ATTENDING

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