

# 2023 Legislative Wrap-Up

Colorado Municipal League

May 22, 2023



# 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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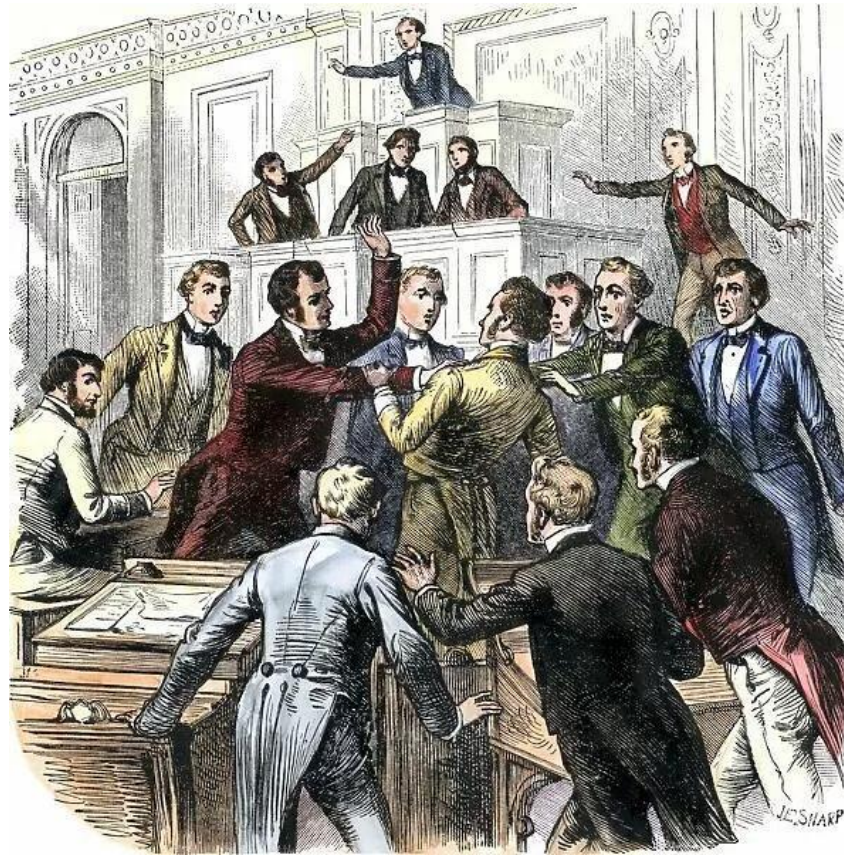


# Fast Facts

- The General Assembly finished their work for the session, and adjourned sine die, shortly before midnight on Monday, May 8<sup>th</sup>.
- Any bills left on the legislative calendar after the legislature adjourns, die on the calendar.



# The mood was tense...



COLORADO  
MUNICIPAL  
LEAGUE

# Land use

## SB23-213 Land-Use

- Large attempt to preempt local control authority around land use.
  - The introduced version of the bill would have impacted nearly every city throughout the state and would have mandated cities allow accessory dwelling units (ADUs), middle housing (duplexes, quadplexes, cottage clusters, town homes), and transit-oriented development in “key corridors” and “transit areas”.
  - The introduced version of the bill also transformed Department of Local Affairs (DOLA) into a regulatory and enforcement arm for the policy.
  - The bill was modified significantly throughout the process. Ultimately, amendments added back on in the House failed to gain enough support from the Senate. The bill died on the calendar waiting for the Senate to vote on adherence vs. concurrence.
  - We will likely see legislation next session dealing with the same topic.
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# Land use

## **HB23-1255, Regulation of Local Governments Growth Restrictions**

- This bill was also part of the Polis housing package.
- The act eliminates the ability for a local government to adopt or enforce an ordinance that explicitly limits the number of building permits approved based on a population restriction.
- The introduced version of the bill was confusing and may have included legitimate moratoria utilized by local governments.
- CML and others negotiated amendments and the final version of the bill allows a local government to have a 24-month moratoria in a five-year period in order to update zoning or land use codes, recover from a natural disaster, or institute an affordability requirement in development.



# Criminal Justice

## **SB23-254, Search Warrant Procedures**

- imposes limitations on search warrants, requiring no-knock warrants to be issued only in credible life-threatening situations, and establishing requirements for executing knock-and-announce search warrants.

## **SB23-097, Motor Vehicle Theft and Unauthorized Use**

- Revises the classification of motor vehicle theft crimes based on specific circumstances rather than the value of the vehicle, creating three degrees of offenses. It also introduces the offense of unauthorized use of a motor vehicle as a misdemeanor when certain conditions are met, with the vehicle being returned or recovered within 24 hours without damage.



# Criminal Justice

## **SB23-170, Extreme Risk Protections Orders**

- The act broadens the eligibility to petition for an Extreme Risk Protection Order (ERPO) by including licensed medical care providers, licensed mental health-care providers, licensed educators, and district attorneys, while maintaining existing ERPO procedures.

## **SB23-249, False Reporting of Emergency**

- The act classifies falsely reporting a mass shooting or an active shooter as a class 6 felony, expands false reporting of an emergency to include shelter-in-place orders or standard response protocol initiation, and includes false reporting of a bias-motivated emergency under the Victim's Rights Acts.





# Criminal Justice

Bills that will likely come back...

## **HB23-1249, Reduce Justice Involvement for Juveniles**

- The bill would have increased the age of prosecution from the age of 10 to the age of 13, except in instance of homicide. Instead, offenders ages 10-12 would be referred to county collaborative management programs (CMPs) to receive services. This bill was gutted in the final days of session and municipalities are no longer included in the bill. The bill is primarily focused on reporting/data collection requirements for counties.

## **HB23-1169, Limit Arrest for Low-level Offenses**

- The bill would have required an individual receive a summons in lieu of arrest for all petty offenses, drug petty offenses, class 2 traffic misdemeanor offenses, and all municipal offenses where there is no comparable state misdemeanor offense.
- The bill was postponed indefinitely by the sponsor, but we do expect to see a bill next session dealing with the same issues.



# Regulated Substances

## **SB23-290, Natural Medicine Regulation and Legalization**

- The act implements Proposition 122, which decriminalizes and regulates certain natural psychedelics. It establishes licensing requirements for facilities (healing centers) and individuals (facilitators) involved in the administration, cultivation, manufacturing, testing, and distribution of regulated natural psychedelics. The act preempts conflicting local laws and allows local governments to regulate the time, place, and manner of operation of licensed entities. It immediately decriminalizes personal cultivation and use of certain natural psychedelics for individuals aged 21 and older within specified contexts. The act introduces fines and penalties for unlicensed facilitation, open consumption, illegal cultivation, and unlicensed manufacturing. Peace officers are authorized to enforce the provisions of the act.



# Accessibility

## **HB23-1302, Housing Accessibility**

- The bill would have required a percentage of publicly, or privately owned housing development to have handicap accessible housing above and beyond what the ADA currently requires. Would have held local governments liable for a discrimination charge if they signed off on a project and the developer failed to follow through.
- The bill was postponed indefinitely by the sponsor.

## **HB23-1308, Access to Government by Persons with Disabilities**

- The bill required within six months, any public meeting held by a state or local public body must be accessible by live streaming video or audio that is recorded and accessible by persons with disabilities. The bill required any person be able to participate by video conferencing, and the public body must provide other auxiliary aids or services if requested. If those services could not be provided, meeting cannot continue.
- The bill was postponed indefinitely by the sponsor.



# Accessibility

## **HB23-1296 Create Task Force to Study the Rights of Persons with Disabilities**

- The bill creates the Task Force on the Rights of Coloradans with Disabilities in the Colorado Civil Rights Division (CCRD).
- The task force will create four issue subcommittees to separately study and report findings concerning issues related to persons with disabilities.
  - Subcommittee on the Rewrite and Modernization of the Colorado Revised Statutes Concerning the Civil Rights of Persons with Disabilities.
  - Subcommittee on Basic Access to the Colorado Outdoors for Persons with Disabilities.
  - Subcommittee on the Affordability, Accessibility, and Attainability of Housing for Persons with Disabilities.
  - Subcommittee on Physical and Programmatic Access within State and Local Government for Persons with Disabilities.
- The task force must produce a final report and recommendations to the Governor and the General Assembly before January 30, 2025.

## **SB23-244- Cleanup to HB21-1110 Website Accessibility**

- The act requires OIT to do formal rulemaking around website accessibility, which was not part of the original bill.
- The act adds the word “reasonable” into the definition of accessibility, allowing for reasonable accommodations .
- The act clarifies that \$3,500 can be awarded for one violation per application (can’t collect \$3,500 for multiple violations on a website for example).



# Broadband

- **SB23-183- Local Government Provision of Communication Services**
  - This act removes the requirement put in place by SB05-152 that a local government hold an election to be able to build out broadband infrastructure- even middle mile.
  - The Federal Government has substantial dollars available for subsidizing broadband buildout, but there is a requirement that there not be any hinderance to local governments accessing the money.
  - This act is in effect today, so you are able to apply for the grant funding in the summer grant cycle from the Colorado Broadband Office.
  - If you already voted out from under SB05-152, there is no change for you from this legislation.



# Employment

- **HB23-1045- Employee Leave for Colorado National Guard Service**
  - The bill provides that members of the Colorado National Guard or reserve components of the United States armed forces are entitled to the equivalent of three weeks of leave from their employer when called to service or for training, instead of the current law amount of 15 days.
  - Employees are given the right to use any paid leave available to them, or to receive leave without pay, if their duties require more than three weeks of leave.
  - The three weeks are based on the employee's regular work schedule.
- **HB23-1091- Continuation of Childcare Contribution Tax Credit**
  - This extends the current tax credit through 2027.
  - The credit is equal to the lesser of 50 percent of the total contribution, up to \$100,000 per taxpayer per year or the taxpayer's actual income tax liability.
  - The Dept of Revenue is also required to develop a study on the usage, as well as the ability to extend it to land donations and in-kind donations like reduced rent in a property.



# Employment, cont.

- **SB23-105- Equal Pay for Equal Work Act**
  - Career progression no longer needs to be posted as "open positions", and backpay is granted for 6 years instead of the current 3 years.
- **SB23-172- Protect Opportunities and Workers Rights**
  - "Severe and pervasive" is no longer part of the definition of "harassment"
  - Marital status is considered a protected class
  - Employers must keep records of complaint for 5 years
- **SB23-53- Restricting Governmental Non-Disclosure Agreements**
  - Both in employment contracts and settlement agreements, municipalities are prohibited from executing non-disclosure agreements unless they fall within a very minimal amount of exceptions for the normal course of business
- **SB23-58- Job Application Fairness Act**
  - Beginning in July 2024, employers may no longer ask any age-identifying questions, such as birthdate or graduation year, on an initial application.
  - Employers may, however, request transcripts, certifications, or other materials if they inform applicants that they may redact age-identifying information from these documents.



# Employment, cont.

- **SB23-111- Public Employees' Workplace Protections**
  - We are still waiting to hear if the Governor is going to veto this legislation.
  - This bill has very broad and ambiguous language, so the rulemaking proceeding happening at Colorado Dept of Labor and Employment will be very important to participate in and keep a close watch on.
  - The bill gives employees the right to discuss or express views regarding public employee representation or workplace issues, 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 to the public employer's governing body regarding employment issues, workplace issues, and any matter of public concern) and organize, form, join or assist in an employee organization.
  - Public Employers may not discriminate against, coerce, intimidate, interfere with, or impose reprisals on an employee for exercising any of the above rights.
  - If signed, the act takes effect in August, and the rulemaking for enforcement takes effect in July 2024.





# Housing

## **HB23-1190: Right of First Refusal for Affordable Housing**

- This bill will allow local governments to purchase a multifamily building for the purposes of preserving affordable housing in their communities. The bill has various exclusions and waivers, and a local government can disclaim the "right of first refusal" in whole or in part.

## **HB23-1304: Proposition 123 Affordable Housing Programs**

- This bill makes changes to Prop 123, a voter-approved measure for affordable housing programs and funding access:
  - Allows tribal governments to participate in affordable housing programs;
  - Transfers administration to the division of local government;
  - Permits OEDIT to use financing funds for administrative expenses;
  - Clarifies income and rent calculations;
  - Specifies unit counting for the 3% growth obligation; and
  - Establishes a process for rural resort communities to adjust income percentages.



# Housing

## **SB23-001: Authority of Public-Private Collaboration Unit for Housing**

- This bill will make it easier for the state to enter into public-private partnerships to create housing projects.
- A local government is considered a "private entity" for purposes of the Public-private Collaboration Unit.
- The bill appropriates funds to the state in order to develop affordable housing projects.



# Property Taxes

- **SB23-108- Allowing Temporary Reductions in Property Tax Due**
  - Local governments may voluntarily reduce their mill levies, and return to the previously voter-approved amount without having to hold an additional vote of the citizens
- **SB23-303/HB23-1311- Reduce Property Taxes And Voter-approved Revenue Change**
  - This bill places the referred measure Proposition HH on the ballot in November
  - Reduces assessment rate to 6.7% from 6.765%, and increases the assessed value exemption from \$15,000 to \$40,000
  - Based on backfill percentages, local governments will receive backfill until they reach 20% assessed value increase from 2022.
  - Senior Homestead exemption is increased to \$140,000 starting in the 2025 tax year and the bill makes the exemption portable.
  - Starting in 2023, growth in revenue limits from property tax revenue is limited to the rate of inflation in the Denver-Lakewood-Aurora CPI
    - Local governments may vote to exceed this through their governing bodies
  - The ballot question also lowers the TABOR cap and retains this funding first for the State Education Fund, then for backfill of local governments.
  - Fire Districts, Hospital Districts, and EMS are at the front of the line for backfill, and will receive 50% of their backfill allocation once they go over the 20% assessed value increase
  - Adding in HB23-1311, TABOR refunds will be equalized across the board through Proposition HH as well.



# Municipal Courts

## **HB23-1132: Court Data Sharing Task Force**

- CML-initiated legislation
- This bill establishes a task force in the judicial department, composed of various stakeholders, to explore the feasibility of sharing information between municipal courts and courts that use the statewide case management system, examining data sharing, access to court data systems, potential processes for expanding access, associated costs, and unintended consequences.
- The task force is required to meet up to six times and report recommendations to the General Assembly by January 8, 2024.

## **HB23-1222: Cases of Domestic Violence in Municipal Courts**

- Beginning January 1, 2024, a municipality that has a municipal ordinance that criminalizes an act of domestic violence must adopt an ordinance establishing various protections for victims that align with similar requirements at the district court level. The court should also make a reasonable effort to ensure that the same prosecutor be present throughout a proceeding.
- For qualifying cases, the bill requires a municipal court to issue a protection order and report the case to the Colorado bureau of investigation (CBI) and enter the information into the Colorado crime information center (CCIC) database and the national crime information center (NCIC) database. The court must also search each database to determine a person has a history of domestic violence.

## **SB23-072: Sunset First Appearance Defense Counsel Grant Program**

- Continues the program established in 2018, providing reimbursement for costs of an attorney for indigent people needed representation.



# Open Meetings/ Open Records

## SB23-286- Access to Government Records

- The introduced version of this bill did not include discounts or exemptions on research and retrieval fees for media entities.
- The act specifies that you cannot charge a per page fee for electronic documents.
- The act also specifies that if you allow credit card transactions for other fees, have to allow it for CORA research and retrieval fees as well.
- If an elected official is the subject of sexual harassment investigation, the bill makes the final reports discoverable under CORA but allows redactions for witness identities, accusers identities, etc. only identities of those found culpable can be released.

## HB23-1259- Open Meetings Law Executive Session Violations

- Bill was in response to predatory lawsuits brought by attorneys representing themselves against school districts and other local governments for minor violations of open meetings laws.
- The act specifies that a pro-se plaintiff for is not entitled to an award of attorney's fees for actions brought against a public entity for violations of executive session open meetings laws.



# Sustainability

## **HB23-1285: Store Use of Carryout Bag Fee**

- HB21-1162 instituted a 10-cent fee on single use carryout bags and mandated that stores remit 60 percent of that fee to a local government. This bill amends that law by advancing the start of remitting carryout bag fees to local governments from 2024 to 2023 (there was a drafting error in 1162) and permits stores to retain fees and utilize the revenue for purchasing recycled paper carryout bags, recycled cups, or compostable food containers if the respective municipality or county has not established a fee collection process.

## **SB23-191: Colorado Department of Public Health and Environment Organics and Diversion Study**

- The bill requires CDPHE to conduct a study exploring what local governments, other state agencies, and other states are doing to divert organic materials from landfills. The study will examine the feasibility of requiring the diversion of both yard trimmings and food scraps and developing necessary composting infrastructure. CDPHE must submit a report to the General Assembly by August 1, 2024.



# Transportation

## **HB23-1101: Expand Ozone Season Grant Program**

- This bill updates the eligibility requirements for the Ozone Season Transit Grant Program by allowing transit agencies operating in regions with different peak ozone periods to designate an alternate "ozone season," expands grant funding to include marketing expenses, rider surveys, and expanding free services or routes, permits agencies to receive additional funding despite previous lower amounts, and mandates the Transportation Commission to study transportation planning organization boundaries by November of this year.

## **HB23-1276: Scope of Bridge and Tunnel Enterprise**

- This bill expands the scope of the Bridge and Tunnel Enterprise to include the completion of preventative maintenance bridge projects and specifies the BTE may repair, reconstruct, replace, or maintain a bridge rated as fair if the fair-rated bridge is included as part of a project to repair, reconstruct, replace, or maintain a designated bridge.



# Transportation

## **SB23-200: Automated Vehicle Identification Systems**

- This bill expands the use of Automated Vehicle Identification Systems (AVIS) and allows municipalities to designate AVIS corridors. It also modifies the service process, reduces notice deadlines, establishes penalty notice standards, and sets requirements for the implementation and use of new AVIS systems while placing restrictions on the retention of photographs and videos from AVIS

## **SB23-268: Ten-year Transportation Plan Information**

- This bill increases transparency within the Department of Transportation by creating certain reporting requirements for each approved 10-year plan project.





# Wildfire

## **SB23-166- Establishment of a Wildfire Resiliency Code Board**

- The act establishes the Wildfire Resiliency Code Board in the Department of Public Safety.
- B July 1st 2025, the Board will determine where the Wildland Urban Interface (WUI) is located and create minimum codes that local governments located within the WUI have to adopt.
- A local government can petition the Board for a modification of the codes and can request enforcement assistance from the Department of Public Safety (although assistance is not guaranteed).



# Elections

- **HB23-1185- Requirements for Recall Elections and Vacancies**
- CML initiated legislation
- The act specifies that if there is a lack of a quorum sufficient to appoint a new councilmember, the city clerk can call a special election to fill vacancies.
- The act also specifies that only registered electors of a municipality can serve on recall election committees.
- **HB23-1245- Campaign Practices for Municipal Elections**
- For municipal elections held on or after January 1, 2024 the act sets limits on contributions to candidates.
- Individuals can contribute up to \$400, small donor committees can contribute up to \$4,000.
- Candidates are required to report contributions 60 days, 30 days and 15 days before an election and 30 days after.
- Municipal clerks are required to retain records of contribution reports for 6 years after a person leaves office.



# Additional Resources

- CML Box Score of support and oppose bills on [cml.org](http://cml.org)
- Laws for Immediate Attention
- Laws Enacted Document

