



**Colorado  
Legislative  
Council  
Staff**

**HB17-1014**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-553 **Date:** January 18, 2017  
**Prime Sponsor(s):** Rep. Rosenthal; Williams D. **Bill Status:** House SVMA  
**Fiscal Analyst:** Chris Creighton (303-866-5834)

**BILL TOPIC:** ELECTION OFFENSES COMMITTED BY A VOTER

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
<b>State Revenue</b> Cash Fund	Minimal impact. See State Revenue section	
<b>State Expenditures</b> Cash Fund	Minimal workload impact. See State Expenditures section.	
<b>TABOR Impact</b>	Minimal TABOR impact. See TABOR impact section.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing minimal revenue and workload impacts.		

**Summary of Legislation**

Under current law, a voter that shows his or her completed ballot in a manner that discloses its contents commits a misdemeanor offense. This bill allows a voter to disclose the contents of his or her completed ballot by showing it to any other person or by making an image available through electronic means (social media). The bill also authorizes municipal and county clerks to place reasonable restrictions on the use of photography or other activities at a polling place or other location in which votes are tabulated. Lastly, the bill makes the trading of a vote or offering to trade a vote a misdemeanor and clarifies that it is a misdemeanor to take a picture of another persons completed ballot.

**Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill creates one new misdemeanor (vote trading), eliminates one misdemeanor (ballot disclosure), and changes the element of another (photographing another's ballot). There have been no misdemeanor penalty cases or convictions related to voter ballot disclosure within the last five years. Given this, the fiscal note assumes that misdemeanor penalty cases related to either taking a picture of another persons ballot or trading a vote are unlikely to occur or will be very rare.

## **State Revenue**

Beginning in FY 2017-18, this bill may both increase and decrease state revenue credited to the Fines Collection Cash Fund in the Judicial Department; however the overall net change is expected to be minimal. The misdemeanor penalty for various ballot disclosure offenses is a fine of no more than \$1,000. Increased fine revenue may be received from misdemeanor offenses committed by taking a photograph of another voter's ballot or trading a vote. However, revenue may decrease due to the elimination of the misdemeanor penalty for a voter that voluntarily discloses the contents of his or her ballot. Given that no cases or convictions related to voter ballot disclosure have occurred in the last five years this analysis assumes that any revenue impact will be minimal.

## **TABOR Impact**

This bill may increase or decrease state cash fund revenue from fines, which may increase or decrease the amount of money required to be refunded under TABOR by a minimal amount. TABOR refunds are paid out of the General Fund. Since the bill potentially increases or decreases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget may increase or decrease by an identical amount.

## **State Expenditures**

The bill minimally impacts workload in the trial courts. Workload could increase due to misdemeanor cases being filed for photographing another voters ballot or trading a vote. However by reducing the scope of the existing misdemeanor offense for disclosing the contents of a ballot the trial courts could experience a decrease in cases related to ballot disclosure. Given the lack of cases brought for ballot disclosure, any workload impact is expected to be minimal and no change in appropriations to the Judicial Department is required.

## **Local Government Impact**

This bill may impact county costs, however any impact is assumed to be minimal given the lack of convictions for voter ballot disclosure over the last five years. The penalty for ballot disclosure is a fine of no more than \$1,000, one year in county jail, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in a county jail varies from about \$53 to \$114 per day.

County or municipal clerk's who decide to place restrictions on the use of photography or other activities at a polling place may have increased workload and costs to create this new policy and inform residents of it.

## **Effective Date**

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed. It applies to elections conducted on or after the effective date.

## State and Local Government Contacts

Local Affairs  
Judicial

County Clerks  
Information Technology

Counties  
Secretary of State