



**Colorado
Legislative
Council
Staff**

HB17-1014

**REVISED
FISCAL NOTE**

(replaces fiscal note dated January 18, 2017)

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

Drafting Number: LLS 17-553 **Date:** February 6, 2017
Prime Sponsor(s): Rep. Rosenthal; Williams D. **Bill Status:** Senate SVMA
 Sen. Hill; Donovan **Fiscal Analyst:** Chris Creighton (303-866-5834)

BILL TOPIC: ELECTION OFFENSES COMMITTED BY A VOTER

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
Cash Funds	Minimal revenue decrease.	
State Expenditures		
Cash Funds	Minimal workload decrease.	
TABOR Impact	Minimal decrease.	
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal revenue and workload decrease.		

Summary of Legislation

Under current law, a voter that shows his or her completed ballot in a manner that discloses its contents commits a unclassified misdemeanor offense. This **reengrossed bill, as amended by the House State Veterans and Military Affairs Committee**, 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 ability of a voter to disclose the contents of his or her ballot at a polling place or other location in which votes are tabulated is subject to the ability of municipal and county clerks to monitor such activity, and clerks may establish reasonable restrictions on the use of photography in polling places.

Comparable Crime

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 eliminates one misdemeanor (ballot disclosure). This is an unclassified misdemeanor with a penalty of a fine of no more than \$1,000 dollars, no more than one year in county jail, or both. There have been no misdemeanor penalty cases or convictions related to voter ballot disclosure within the last five years.

State Revenue

Beginning in FY 2017-18, this bill potentially decreases state cash fund revenue as described below.

Criminal fines. This bill may decrease state revenue from fines credited to the Fines Collection Cash Fund in the Judicial Department. The penalty for a ballot disclosure offense is a fine of no more than \$1,000. Given that no cases or convictions related to voter ballot disclosure have occurred in the last five years this analysis assumes that any revenue decrease will be minimal.

Court and administrative fees. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court. By eliminating the misdemeanor penalty for ballot disclosure, this bill potentially decreases court and administrative fee revenue by a minimal amount. Potential revenue from probation supervision fees is also eliminated.

TABOR Impact

This bill may decrease state cash fund revenue from fines and fees, which may 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 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 by an identical amount.

State Expenditures

The bill minimally impacts workload in the trial courts. By eliminating the existing misdemeanor offense for disclosing the contents of a ballot the trial courts could experience a decrease in cases related to ballot disclosure. Workload in the probation services division may also decrease if repealing the ballot disclosure offense reduces future convictions. 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 impacts local governments as described below.

County and Municipal Clerks. County or municipal clerks 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 and implement this new policy, and to inform residents of it.

Misdemeanor offenses in county courts. First, by eliminating the misdemeanor offense for ballot disclosure, the bill may decrease workload for district attorneys to prosecute these offenses. Second, to the extent that this bill decreases misdemeanor convictions and fewer offenders are sentenced to jail, costs will decrease. Under current law, a court may sentence an offender to jail for this unclassified misdemeanor for up to one year. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day.

For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal since no recent cases or convictions for this misdemeanor have occurred.

Denver County Court. The bill decreases workload for the Denver County Court, managed and funded by the City and County of Denver. By eliminating the misdemeanor offense for ballot disclosure, the bill may result in the court trying fewer misdemeanor cases. Probation services in the Denver County Courts may also experience a minimal decrease in workload and revenue from eliminating the potential supervision of persons convicted for the repealed misdemeanor.

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

Clerks
Judicial

Counties
Local Affairs

Information Technology
Secretary of State