



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number: LLS 21-0638 Date: September 22, 2021
Prime Sponsors: Rep. Ortiz Bill Status: Signed into Law
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Bill Topic: COLORADO LAWS FOR PERSONS WITH DISABILITIES

- Summary of Fiscal Impact:
State Revenue (checkbox)
State Expenditure (checked)
State Transfer (checkbox)
TABOR Refund (checkbox)
Local Government (checked)
Statutory Public Entity (checkbox)

The bill strengthens state discrimination laws for individuals with disabilities. It increases state and local expenditures on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill requires and includes an appropriation of \$312,922 to the Office of Information Technology.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 21-1110

Table with 4 columns: Category, Budget Year FY 2021-22, Out Year FY 2022-23. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and TABOR Refund.

Summary of Legislation

This bill strengthens state discrimination laws for individuals with disabilities. The bill adds three discrimination violations and provides additional responsibility for the Office of Information Technology (OIT) to improve the accessibility of state agency web content.

Public entity. Under current Colorado civil rights law, the definition of public entity references Title II of the federal Americans with Disabilities Act of 1990 (ADA). The bill defines public entity as:

- any state or local government; or
- any department, agency, special district, or other instrumentality of a state or local government.

Discriminatory practices. The bill prohibits:

- the exclusion of an individual with a disability from participation in or the benefits of services, programs, or activities provided by a public entity;
- a state agency from promulgating rules that provide less protection for individuals with disabilities than provided by the ADA; and
- a public entity from failing to comply with accessibility standards established by OIT.

Accessibility plans. The Chief Information Officer of OIT is required to establish accessibility standards for individuals with a disability using the most recent web content accessibility guidelines published by the World Wide Web Consortium Web Accessibility Initiative. State agencies are required to submit a written accessibility plan implementing the standards to the OIT by July 1, 2022. OIT is directed to work collaboratively with state agencies to establish implementation methodologies. State agencies are required to fully implement their accessibility plans by July 1, 2024.

Remedies. An individual with a disability may bring a civil suit against a public entity for exclusion from government benefits or for rules promulgated that provide less protection than the ADA for individuals with disabilities upon passage of the bill. Once OIT establishes accessibility standards, a local government or special district is subject to a civil suit for discrimination for not complying with the accessibility requirements in the bill. The remedies for discrimination against an individual with a disability include:

- a court order requiring compliance;
- the recovery of actual monetary damages; or
- a fine of \$3,500 payable to each plaintiff for each violation.

The liability for noncompliance lies with the state agency or public entity not the platform hosting the content.

Procurement requirements. Under current law, OIT approves the minimum standards and criteria for state agency procurement of adaptive equipment for nonvisual access uses. This bill expands that authority to include access for an individual with any disability.

Exemptions. For purposes of providing OIT with a written accessibility plan, the bill does not include state-supported institutions of higher education or the following departments: Education, Law, Judicial, Legislative, State, and Treasury.

Background

Federal law. The ADA, which became law in 1990, prohibits discrimination against individuals with disabilities in employment, government services, public accommodations and services, telecommunications, and transportation. The ADA defines “public entity” as:

- any state or local government;
- any department, agency, special purpose district, or other instrumentality of a state or local government; or
- certain commuter authorities, as well as AMTRAK.

Discrimination against individuals with disabilities by the federal government is prohibited by sections 501 and 504 of the Rehabilitation Act of 1973.

World Wide Web Consortium Web Accessibility Initiative. The web content accessibility guidelines developed by the consortium are intended to make web content easier to access by individuals with a wide range of disabilities. According to the guidelines, web content should be perceivable, operable, understandable, and robust. Techniques suggested include the use of captions, using alternatives to keyboards, providing input assistance, and ensuring compatibility with current and future technologies.

State Expenditures

This bill will increase General Fund expenditures by \$329,140 and 0.9 FTE in FY 2021-22 and \$331,249 and 1.0 FTE in FY 2022-23 to the OIT. Other agencies will have an increase in workload. These costs are shown in Table 2 and explained below.

Table 2
Expenditures Under HB 21-1110

	FY 2021-22	FY 2022-23
Office of Information Technology		
Personal Services	\$79,772	\$87,025
Operating Expenses	\$1,350	\$1,350
Capital Outlay Costs	\$6,800	-
Software Licensing	\$225,000	\$225,000
Centrally Appropriated Costs ¹	\$16,218	\$17,874
Total Cost	\$329,140	\$331,249
Total FTE	0.9 FTE	1.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Office of Information Technology. OIT will establish accessibility standards based on the guidelines referenced in the bill. The Technology Assistance program will add 1.0 FTE Developer II to support state agencies in developing and implementing their accessibility plans. The developer will serve as the administrator for new software, work with agencies to evaluate their websites, monitor accessibility plans, and facilitate meetings with agency liaisons and stakeholders. Personal services costs are prorated in FY 2021-22 for the General Fund pay date shift. Capital outlay costs for the new staff includes the costs for computer screen readers to test accessibility for the visually impaired.

The program will also contract for a software license that evaluates websites for compliance with web standards for accessibility. It will be available for all state agencies, including those not supported by OIT.

Personnel and Administration. The bill may result in an increase in discrimination claims from state employees. This will increase costs and workload for multiple divisions in the department, but are not expected to require additional appropriations.

Judicial Department. The bill adds three discrimination violations, which may increase the workload for trial courts. Any increase is expected to be addressed within existing appropriations.

Civil Rights Division. Similar to the Judicial Department, the Civil Rights Division in the Department of Regulatory Agencies may have an increase in discrimination complaints. Any increase is expected to be addressed within existing appropriations.

Other state agencies. This bill will increase workload for state agencies to evaluate their level of compliance with the accessibility standards established by OIT. State agencies whose information technology systems are supported by OIT will have an additional increase in workload to develop their accessibility plans. Once each agency identifies the gaps between their current accessibility and the new requirements by July 1, 2022, they will identify the costs to bring their systems into compliance by July 1, 2024. These costs will be addressed through the annual budget process.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$16,218 in FY 2021-22 and \$17,874 in FY 2022-23.

Local Government

Under the amendment, local governments and special districts may be subject to civil suits as soon as OIT adopts accessibility standards if their current information technology resources do not meet those standards. This may result in costs to come in to compliance in a short time frame or be subject to significant penalties.

Effective Date

The bill was signed into law by the Governor and took effect on June 30, 2021.

State Appropriations

For FY 2021-22, the bill requires a General Fund appropriation of \$312,922 to the Office of Information Technology, and 0.9 FTE.

State and Local Government Contacts

All State and Local Agencies