


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 08-0882
Prime Sponsor(s): Sen. Renfroe
 Rep. Lundberg

Date: February 1, 2008
Bill Status: Senate SVMA
Fiscal Analyst: Chris Ward (303-866-5834)

TITLE: CONCERNING THE PRESERVATION OF A PERSON'S EXERCISE OF RELIGION.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue	\$0	\$0
State Expenditures General Fund	Potential Increase	
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: August 6, 2008, assuming the legislature adjourns May 7, 2008, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2008-2009: None required.		
Local Government Impact: None.		

Summary of Legislation

The bill clarifies in statute the constitutional guarantee of religious freedom found in Article II, Section 4 of the Colorado Constitution and in the first amendment to the United States Constitution. It prohibits the government from substantially inhibiting or curtailing a religiously motivated practice, even by a rule that applies generally, unless the government can demonstrate that its action furthers a compelling governmental interest and does so by the least restrictive means. The bill applies to all state agencies, all political subdivisions of the state, and all persons acting under state law.

Individuals may seek judicial and administrative remedies for violations by a governmental entity. Monetary damages may be awarded to a person who prevails in a proceeding to enforce the act, in addition to reasonable costs and attorney fees. If a court finds that a person abused the protections by filing a fraudulent or frivolous claim, that person may be assessed the governmental entity's court costs and enjoined from filing further claims under the law.

The bill is similar to portions of the federal Religious Land Use and Institutionalized Persons Act of 2000, except that it permits damage awards against the government.

State Expenditures

It is assumed that governmental entities will comply with the requirements of the bill. But, by clarifying the right to seek a judicial or administrative remedy, and allowing for the award of monetary damages, the bill may result in new challenges to state agency rules or actions. The impact on state expenditures has not been estimated.

Costs for defending a state rule or action would be incurred primarily in the **Department of Law**. This fiscal note has not estimated the potential increase in litigation costs because the number of new lawsuits that may arise as a result of this bill, if any, is unknown. It is assumed that any additional appropriations for the Department of Law to defend state agencies will be identified and provided through the annual budget process.

Challenges to state agency rules or actions would be handled by either the **Judicial Branch** or administrative law judges in the **Department of Personnel and Administration**. Although these cases may be complex, only a small number are expected and no additional appropriations should be needed.

Department Differences

It should be noted that the Department of Law has identified a need for an increase in General Fund appropriations of **\$145,861 and 1.5 FTE in FY 2008-09**. The department supports its estimate based upon past experience dealing with litigation filed by inmates at state facilities after new legal claims are authorized. The fiscal note does not identify these costs as being required because of the difficulty in directly attributing any potential increase in lawsuits directly to this bill.

Departments Contacted

Law
Regulatory Agencies

Judicial

Personnel & Administration