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MEMORANDUM

To: Zach Walker, City Manager
Through: Jeremy Cover, City Counselor
From: Sarah Oldridge, Assistant City Counselor
Date: July 21, 2022
Re: An overview of HB 1606 and Section 67.2300, RSMo., as it relates to homelessness

Question

How does the passing of HB 1606 relating to homelessness impact the City and what is the City's responsibility to enforce the provisions of HB 1606?

Short Answer

There are essentially four key takeaways from HB 1606 that are of particular note and interest to cities attempting to navigate this bill.

1. This new law expressly prohibits unauthorized camping on state land, and expressly directs cities to enforce their own policies on this point.
2. State funds can be used for a range of issues related to homelessness.
3. State funds can be withheld from cities not performing well enough in this area.
4. It is not clear what the State is requiring from cities other than enforcing any loitering or camping ordinances that they may have.

Detailed Overview

Allocation and Withholding of State Funds

HB 1606 details exactly how funds can be spent, such as with parking areas or shelters designated for overnight parking, camping, or sleeping. Section 67.2300(2)(2) details out exact requirements for parking areas, designated homeless camping facilities, and both individual and congregate shelters. Further, funds that were previously ear-marked to establish permanent housing projects aimed at combating homelessness can now be directed to providing services to individuals with substance abuse issues and require short term housing or mental health services. These funds (not to exceed 10% of the total grant amount) can now also be utilized in conducting surveys to identify individuals at risk. See 67.2300(2)(4)(2).

In plain language, any designated parking areas or shelters for those experiencing homelessness would need to follow at a minimum the specific guidelines detailed in Section 67.2300(2)(2).

1. How funds shall be spent:

- a. “This act provides that state funds for homelessness shall be used for certain facilities, including parking areas, camping facilities, and short-term shelters, and shall comply with certain requirements as provided in the act. Additionally, any person that owns or operates a private camping facility pursuant to this act shall be immune from liability as provided in the act.”
- b. “State funds otherwise used for permanent housing projects shall be used to assist individuals with substance use, mental health treatment, and other services like short-term housing.”

HB 1606 indicates that incentives will be provided in the form of performance payments for reducing certain statistics associated with homelessness. Section 67.2300(2)(4) refers to the department providing up to 25% of the base allocation of state funds used to construct permanent housing for the homeless as performance payments to political subdivisions for reducing certain predetermined goals (not detailed here) as related to a reduction in days unhoused, days in jail or prison, and days hospitalized.

2. Performance Payments: (incentives for reducing certain statistics associated with homelessness)

- a. Any state department that is authorized to allocate funds for housing or homelessness shall award certain funds as performance payments for political subdivisions that reduce the number of individuals with days unhoused, days in jail, or days hospitalized.

3. Withholding funds:

- a. Any political subdivision with a higher per-capita homelessness rate than the state average according to the U.S. Census and Department of Housing and Urban Development data shall receive no further state funding until the department awarding the funds determines the political subdivision has a lower homelessness rate than the state average or it enforces ordinances prohibiting unauthorized sleeping and camping.

No Camping on State Property, and No Failure to Enforce “No Camping” Ordinances

1. No Camping on State Property:

- a. HB 1606 provides that no person shall be permitted to use state-owned lands for unauthorized sleeping, camping, or long-term shelters. Any violation shall be a Class C misdemeanor; however, the first offense shall be a warning with no citation.

Regarding this provision, as long as the City continues to police any areas considered to be “state-owned” lands, such as rights-of-way and overpasses, as it normally would, then it should be in compliance with this section.

2. No failure to enforce “no-camping” ordinances:

- a. A political subdivision shall not adopt any policy under which the political subdivision prohibits the enforcement of any ordinance prohibiting public camping, sleeping, or obstruction of sidewalks.

Section 67.2300(2)(6) provides in part that a city shall not prohibit or discourage a peace officer or prosecuting attorney who is employed by the city or acting on behalf of the city from enforcing any order or ordinance prohibiting public camping, sleeping, or obstruction of sidewalks.

The Attorney General can Sue to Enjoin Political Activities from Enacting Certain Policies

The Attorney General shall have the power to bring a civil action to enjoin the political subdivision from failing to enforce provisions of Section 67.2300(2)(6).

In order to remain compliant, the City should continue to enforce any ordinance to this effect and not actively disregard the offending behavior covered in Section 67.2300(2)(5).

Effective Date

These provisions of HB 1606 are to go into effect as of January 1, 2023.

Conclusion

Overall, HB 1606 puts forth the duty for cities to enforce all codes and ordinances under the purview of Section 67.2300, and to not actively refrain from enforcement of such.