

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 248 creates a new short title act, the Unsafe Use of Public Roadways and Spaces Act. The purpose of the Act is to ban soliciting from most parking lots and traffic medians. The Act defines soliciting as "a request by a person through words, signs or actions for donations of money or other items of value, appeals for support of persons, policies or projects and offers to sell products or services." The Act delineates the areas in which one can solicit and those where one cannot. It also contains the provision that "it is unlawful to solicit from one-half hour after sunset until one-half hour before sunrise." Someone violating the restrictions on soliciting can be charged with a petty misdemeanor.

The Act also bans "aggressive solicitation". Aggressive solicitation includes the following:

- 1) coming closer than three feet to the person solicited, unless the person solicited indicates in described ways that they want to communicate;
- 2) blocking or impeding the entrance to a structure of vehicle;
- 3) continuing to solicit a person after that person has declined the solicitation; or
- 4) threatening or directing abusive language towards a solicited person.

Whoever commits aggressive solicitation can be charged with a misdemeanor.

SB 248 contains a Severability clause.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Panhandling laws are often overturned on First Amendment grounds, but it is hard to judge how a particular court will judge a particular law. A good discussion of the competing priorities can be found in Pufong, "Panhandling Laws", Free Speech Center, Middle Tennessee State

University (Jan. 2024) (available at: <https://firstamendment.mtsu.edu/article/panhandling-laws/>).

Key elements of a law restricting or banning solicitation, according to Prufong, are that it:

- 1) be neutral in content;
- 2) be narrowly tailored;
- 3) leave open ample alternative channels of communication; and
- 4) serve a significant government interest that is pressing and legitimate.

Pufong's article concludes:

Thus, the fate of panhandling under the First Amendment remains less than clear. Some scholars contend that ordinances that regulate ordinary panhandling can be clearly distinguished from those that regulate menacing and intimidating behavior — aggressive panhandling. Others argue that city laws regulating panhandling are unconstitutionally vague and overbroad, deprive panhandlers of their free speech rights, and raise serious due process concerns by targeting the homeless.

* * *

As shown, cities can enact ordinances that properly regulate the time, place, and manner of panhandling without completely prohibiting begging, as long as such ordinances are content neutral and do not burden people's abilities to exercise their free speech rights. Such a regulation would be constitutional because neither intimidating conduct nor threatening speech is a recognized communication protected under the free speech guarantees of the First Amendment.

Laws banning aggressive panhandling – or, in the context of SB 248, aggressive solicitation – are more likely not to fall afoul of First Amendment protection than laws restricting or banning all panhandling or solicitation. This points to the importance of the Severability clause in SB 248, as the restrictions on solicitation could conceivably be found unconstitutional, while the ban on aggressive solicitation would be more likely to be allowed under the Constitution.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS