



**Colorado
Legislative
Council
Staff**

HB16-1006

FISCAL NOTE

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

Drafting Number: LLS 16-0753 **Date:** January 26, 2016
Prime Sponsor(s): Rep. Becker K.; Garnett **Bill Status:** House Finance
Fiscal Analyst: Greg Sobetski (303-866-4105)

BILL TOPIC: CLARIFY TAX EXEMPTIONS FOR HOUSING AUTHORITIES

Fiscal Impact Summary	FY 2015-2016 <i>(current year)</i>	FY 2016-2017	FY 2017-2018
State Revenue General Fund Cash Funds	(\$1.4 million)	indeterminate decrease indeterminate decrease	
State Expenditures School Finance*		indeterminate increase	
TABOR Impact		indeterminate decrease	
Appropriation Required: None.			
Future Year Impacts: Ongoing state revenue decrease and increase in school finance expenditures.			

**School finance expenditures may be paid from the General Fund, the State Education Fund, or a combination thereof.*

Summary of Legislation

Under current law, a housing authority is exempt from any taxes or fees payable to the state, any subdivision thereof, and all levels of local government. All property owned by or leased to an authority for a project that benefits low-income households is exempt from taxation, as is the income derived from the authority by the lessor. The bill clarifies that this exemption applies to property owned by or leased to any subsidiary of a housing authority, including:

- an entity that is wholly owned by a housing authority;
- an entity in which a housing authority has an ownership interest; and
- an entity in which a subsidiary has an ownership interest.

Under current law, only residential property inhabited by low-income households is eligible for the exemption. The bill repeals this eligibility requirement, expanding the exemption to all property owned by or leased to a subsidiary of an authority.

Background

A housing authority is a public corporation affiliated with the state or a local government. Housing authorities in Colorado provide and facilitate affordable housing under the direction of the U.S. Department of Housing and Urban Development, the Division of Housing in the Colorado Department of Local Affairs (DOLA), and applicable local governments. There are three statewide housing authorities: the Department of Human Services, the Division of Housing in DOLA, and the Colorado Housing Finance Authority. Additionally, the DOLA identifies 27 county, 81 municipal, and 6 multi-jurisdictional housing authorities.

The exemption from government charges dates to the 1930s. House Bill 00-1284 expanded parts of the exemption to include an authority's subsidiaries.

State Revenue

The bill will reduce General Fund revenue by \$1.4 million in the current FY 2015-16 and by an indeterminate amount in FY 2016-17 and subsequent years. Cash fund revenue will be reduced by an indeterminate amount beginning in FY 2016-17.

Disputed sales taxes. The bill is assumed to resolve in the favor of taxpayers four disputed sales tax bills pending before the Department of Revenue (DOR) Office of the Tax Conferree. As a result, these taxes will not be collected. Abandonment of these disputes is expected to reduce General Fund revenue by \$1.4 million in FY 2015-16 only.

Following the passage of HB00-1284, the DOR extended a sales tax exemption to subsidiaries of housing authorities. In 2013, the DOR changed its interpretation of this law and has since disallowed these exemptions. Based on two of the four cases pending before the Office of the Tax Conferree, the average amount of state revenue subject to dispute for each project is \$348,000. Disputes primarily concern sales taxes due on construction materials for projects built by subsidiaries of housing authorities. To the extent that these two projects are not representative of the others, the revenue decrease will be greater or less than estimated. It is possible that more disputes will occur, resulting in a larger revenue reduction to the state; these disputes cannot be anticipated and their impacts are therefore indeterminate.

Expansion of exemption to include other property. The expansion of the tax exemption to the portion of a project that is not low-income residential housing is expected to reduce both General Fund and cash fund revenue beginning in FY 2016-17. Because these projects have not yet been constructed, the amount and value of income and property exempted and the amounts of the resulting revenue reductions are unknown.

TABOR Impact

To the extent that the bill reduces state revenue subject to TABOR beginning in FY 2016-17, the amount of money required to be refunded under TABOR will also decrease. TABOR refunds are paid out of the General Fund. Since the bill reduces both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will reduce money available for the General Fund budget in the future during years the state does not collect money above the TABOR limit.

The state is not expected to collect a TABOR surplus during FY 2015-16.

State Expenditures

Beginning FY 2016-17, both the DOR Office of the Tax Conferee and the DOLA Division of Property Tax are expected to experience additional workload as a result of the bill. These impacts can be absorbed within existing appropriations.

School finance. The bill extends the housing authority property tax exemption to commercial and residential property not inhabited by low-income households. To the extent that property tax or specific ownership tax revenue collected by school districts is reduced, the bill could increase the state share of school finance depending on the application of the negative factor. The state's share of school finance may be paid out of the General Fund, the State Education Fund, or a combination thereof, as determined in the budgeting process.

Local Government Impact

The bill will reduce revenue to counties, municipalities, school districts, and special districts by at least \$422,000 in FY 2015-16, and by an indeterminate amount beginning in FY 2016-17.

Statutory government sales taxes. The DOR collects and distributes sales taxes for statutory counties, cities, and special districts. The four projects currently under dispute in the Office of the Tax Conferee concern at least \$158,000 in disputed sales taxes due to a statutory county and at least \$264,000 in disputed sales taxes due to special districts, including the Regional Transportation District and the Scientific and Cultural Facilities District. The bill is expected to reduce revenue to these governments by at least this amount in FY 2015-16.

Home rule government sales taxes. Each home rule city and county collects sales taxes directly from taxpayers and determines its own policies based on its interpretation of state law. All four projects currently under dispute are within the boundaries of home rule cities, and one is within the boundary of a home rule county. Whether the bill will affect revenue to these cities and counties depends on these governments' interpretation of state law and whether or not the relevant tax bills are under dispute.

Property taxes. All levels of local government will experience a reduction in revenue to the extent that the expansion of the exemption results in an increase in exempt property. Because the location and value of the affected property is unknown, the amount of any revenue reduction resulting from the exemption is indeterminate.

Under current law, school districts and Boards of Cooperative Educational Services (BOCES) may submit a separate estimate of fiscal impacts within seven days of a bill's introduction. Estimates submitted by districts or BOCES for this bill can be found on the Legislative Council website at this address: <http://www.colorado.gov/lcs>

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties
Office of Information Technology

Local Affairs
Property Tax

Municipalities
Revenue