



**Colorado
Legislative
Council
Staff**

SB16-060

FISCAL NOTE

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

Drafting Number: LLS 16-0390
Prime Sponsor(s): Sen. Garcia
Rep. Esgar

Date: January 26, 2016
Bill Status: Senate Finance
Fiscal Analyst: Chris Creighton (303-866-5834)

BILL TOPIC: STATE FISCAL RESPONSIBILITY FOR PROVIDING COURTS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018	FY 2036-37
State Revenue			
State Expenditures	<u>\$71,801</u>	<u>\$2,580,592</u>	<u>\$105,423,051</u>
General Fund	60,416	2,566,665	105,409,124
Centrally Appropriated Costs	11,385	13,927	13,927
FTE Position Change	0.8 FTE	1.0 FTE	1.0 FTE
Appropriation Required: \$60,416 - Department of Local Affairs (FY 2016-17).			
Future Year Impacts: Ongoing state expenditure increase.			

Summary of Legislation

This bill gradually transfers courtroom and court facility maintenance costs from the counties to the state. Each year the Board of County Commissioners in each county must report the fair market value rent for their courtrooms and court facilities occupied by the Judicial Department to the State Controller and the State Property Tax Administrator. Once certified, the State Controller must pay each county treasurer a percentage of the certified fair market rent value beginning with 5 percent in FY 2017-18. This percentage increases by 5 percent each subsequent fiscal year ending in FY 2036-37 when the state assumes 100 percent of county courtroom and court facility costs. After the state assumes full responsibility of court facilities, the state may negotiate with the county to acquire the property from the county in lieu of paying rent.

Background

Courtroom facilities in Colorado. There are 71 courthouses in 64 counties in Colorado, and 15 additional probation offices (86 courthouse facilities). Many courthouse facilities are in older buildings, lacking as-built plans or any other record of the total square footage (SF) used by the Judicial Department.

Budget responsibility for courthouse facilities. According to current state law, counties provide and maintain adequate courtroom facilities, while the state Judicial Department provides furnishings and staffing to allow judicial facilities to function. Probation is considered a part of courtroom facilities, and the Division of Probation Services in the Judicial Department does not receive state appropriations for office space.

Underfunded Courthouse Facilities Grant Program. The state is currently assisting county governments with costs to repair, renovate, or expand courthouses in the state's judicial districts. House Bill 14-1096 created the Underfunded Courthouse Facilities Grant Program and appropriated \$700,000 to a new cash fund to pay for the program. The Judicial Department received a FY 2015-16 capital development appropriation to continue the program with \$2 million in facilities improvements. For FY 2016-17, a capital development request for \$2.7 million has been submitted.

State Expenditures

This bill increases state General Fund expenditures by **\$71,801 and 0.8 FTE in FY 2016-17 and \$2,580,592 and 1.0 FTE in FY 2017-18**, with ongoing state expenditure increases through FY 2036-37. Beginning in FY 2016-17, the Department of Local Affairs (DOLA) must hire staff to certify annual commercial property appraisals. This bill also increases workload in Office of the State Controller in the Department of Personnel and Administration (DPA) and the Office of State Court Administration in the Judicial Department, but does not require additional appropriations. State expenditure impacts are summarized in Table 1 and discussed below. Beginning in FY 2017-18, the Office of the State Controller is required to pay each county the state rental subsidy. Table 2 provides a breakdown of the estimated state rental subsidy.

Cost Components	FY 2016-17	FY 2017-18
<u>State Controller (DPA)</u>		
State Rent Subsidy Paid to all Counties	\$0	\$2,500,000
<u>Property Taxation DOLA</u>		
Personal Services	\$54,763	\$65,715
FTE	0.8 FTE	1.0 FTE
Operating Expenses and Capital Outlay Costs	5,653	950
Centrally Appropriated Costs*	11,385	13,927
TOTAL	\$71,801	\$2,580,592

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

Table 2. Estimated State Rental Subsidy, FY2017-18 to 2036-37 and Thereafter					
Fiscal Year	Estimated Gross SF	Assumed Rent Rate*	Fair Market Value Rent	State Share %	Annual State Rental Subsidy
2017-18	2,500,000	\$20.00	\$50,000,000	5%	\$2,500,000
2018-19	2,500,000	\$20.80	\$52,000,000	10%	\$5,200,000
2019-20	2,500,000	\$21.63	\$54,080,000	15%	\$8,112,000
2020-21	2,500,000	\$22.50	\$56,243,200	20%	\$11,248,640
2021-22	2,500,000	\$23.40	\$58,492,928	25%	\$14,623,232
2022-23	2,500,000	\$24.33	\$60,832,645	30%	\$18,249,794
2023-24	2,500,000	\$25.31	\$63,265,951	35%	\$22,143,083
2024-25	2,500,000	\$26.32	\$65,796,589	40%	\$26,318,636
2025-26	2,500,000	\$27.37	\$68,428,453	45%	\$30,792,804
2026-27	2,500,000	\$28.47	\$71,165,591	50%	\$35,582,795
2027-28	2,500,000	\$29.60	\$74,012,214	55%	\$40,706,718
2028-29	2,500,000	\$30.79	\$76,972,703	60%	\$46,183,622
2029-30	2,500,000	\$32.02	\$80,051,611	65%	\$52,033,547
2030-31	2,500,000	\$33.30	\$83,253,675	70%	\$58,277,573
2031-32	2,500,000	\$34.63	\$86,583,822	75%	\$64,937,867
2032-33	2,500,000	\$36.02	\$90,047,175	80%	\$72,037,740
2033-34	2,500,000	\$37.46	\$93,649,062	85%	\$79,601,703
2034-35	2,500,000	\$38.96	\$97,395,025	90%	\$87,655,522
2035-36	2,500,000	\$40.52	\$101,290,826	95%	\$96,226,284
2036-37 & thereafter	2,500,000	\$42.14	\$105,342,459	100%	\$105,342,459

* Rental rate is subject to 4 percent annual growth adjustment to maintain fair market value.

Data and assumptions. This analysis is based on the following data and assumptions:

- The extent of courthouse facilities covered by the bill includes all county building space occupied by the Judicial Department. This includes the courts of each judicial district, including clerks and administration, as well as the probation offices associated with each judicial district.
- The total square footage of courthouse facilities in all judicial districts is estimated to be 2.5 million square feet.
- On a statewide basis, the average fair market value rental rate is \$20 per square foot annually, increased annually by 4 percent to account for annual growth.
- The bill transfers responsibility for rent costs exclusive of personnel for security and other courthouse operating expenditures so long as the building remains county property. The responsibility for maintenance will reside with the government holding title to the property; therefore these costs will remain an exclusively local government expenditure through at least FY 2036-37.

- The amounts estimated in this fiscal note are not based on the detailed county facility fair market rates. These rates will be determined by the bills annual reporting and certification process.

Department of Personnel and Administration — State Controller. The State Controller's office will release payments from the General Fund to all 64 county governments starting in FY 2017-18. These funds are expected to be lump sum payments for the annual fair market value rent of each county courthouse facility. Refer to Table 2 on page 3 for a summary of the estimated annual rent subsidy for future fiscal years.

The bill creates a minimal workload for the State Controller to make scheduled disbursements. The workload of the DPA is also increased to facilitate interagency agreements and state procurement, as needed. No new appropriations are required for the DPA to implement the bill.

Department of Local Affairs — Property Tax Administrator. The Division of Property Taxation in DOLA, requires an increase in General Fund state expenditures of \$71,801 and 0.8 FTE in FY 2016-17 and by \$80,592 and 1.0 FTE in FY 2017-18 to fund this position. Personnel costs in FY 2016-17 are prorated to reflect the paydate shift and effective date of this bill.

The State Controller will not release state funds to a county without a certified fair market value rent calculation from the Property Tax Administrator (PTA). However, fair market value rent is not an established measure in current real estate or appraisal practice. To adequately regulate the state rental subsidy disbursed to counties, the PTA will be required to develop expertise and enforce reasonable guidelines in the calculation of rents. The PTA will also be required to audit reported amounts and independently calculate the allowable rent. This workload requires an additional 1.0 FTE to hire an experienced Tax Specialist to coordinate the courthouse certification program and manage reallocation of workload in the Division of Property Taxation based on the annual cycle of county reports.

Judicial Department. This bill affects Court Facilities and Planning in the Office of the State Court Administrator. The Judicial Department must analyze its long-term budget and capital structure to determine the feasibility of acquiring county courthouse facilities when fully state funded as of FY 2036-37. The Judicial Department will coordinate its budget for Underfunded Courthouse Facilities with any purchase plan. Additionally, as the department assumes the responsibility for statewide courthouse facilities, the department will need to conduct long-term courthouse facility assessments to ensure adequate judicial facilities are in place to handle future judicial caseloads. No new appropriations are required for the Judicial Department.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under SB16-060		
Cost Components	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$6,699	\$8,039
Supplemental Employee Retirement Payments	\$4,686	\$5,888
TOTAL	\$11,385	\$13,927

Local Government Impact

The bill will increase county revenue from rent charged to the state for courthouse facilities starting in FY 2017-18. Associated workload increases are anticipated for county staff.

County budgets. Counties will receive new revenue from the state under the bill, starting in FY 2017-18. The statewide total amount paid to counties in each fiscal year is estimated in Table 2 above. The amount paid by the state to each individual county depends on the number of courthouse facilities, the condition of the facilities, and local market prices for similar office space. Exact amounts will be determined in the bill's annual reporting and certification process.

The workload of county officials involved in budgeting will increase to track Judicial Department usage of county building space, evaluate market conditions, estimate fair market value rent, and provide annual reports to the State Controller and Property Tax Administrator.

County treasurers. County treasurers will receive the annual rent payment from the State Controller. This involves minimal workload to account for the revenue and ensure that it is properly credited.

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 Appropriations

For FY 2016-17, this bill requires an appropriation of \$60,416 from the General Fund to the Department of Local Affairs and an allocation of 0.8 FTE.

State and Local Government Contacts

Colorado District Attorneys	Counties	Municipalities
Corrections	Judicial	Local Affairs
Office of Information Technology	Personnel	Property Tax
Public Safety		