



Legislative Council Staff

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Final Fiscal Note

Drafting Number:	LLS 22-0529	Date:	June 29, 2022
Prime Sponsors:	Rep. Soper; Roberts Sen. Donovan; Simpson	Bill Status:	Signed into Law
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Bill Topic: CONTROLLED ENVIRONMENTAL AG FACILITY AS AG PROPERTY

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

For property tax years 2023 through 2027, this bill defines controlled environmental agricultural facilities, and clarifies the way they are valued for property tax purposes. The bill likely reduces property tax revenue for local governments on an ongoing basis, and increases workload for both the Division of Property Taxation and county assessors.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Summary of Legislation

For property tax years 2023 through 2027, this bill defines a controlled environmental agricultural (CEA) facility as a nonresidential structure and related equipment combining engineering, horticultural science, and computerized management techniques to optimize hydroponics, plant quality and food production efficiency from the land's water for human or livestock consumption. The bill further specifies that:

- a CEA facility will be valued for assessment purposes as all other agricultural property using the cost, market, and income approaches;
- agricultural equipment used in a CEA facility is exempt from property tax;
- personal property used in the operation of a CEA facility is exempt from property tax; and
- a CEA facility may not be used to grow marijuana or any other nonfood crop agricultural products.

If the sole use of the CEA facility is not growing crops for human or livestock consumption, the property shall be classified and valued based on actual use.

As part of the personal declaration filed with the county assessor, the bill requires the owner of a CEA facility to include an affidavit affirming that the facility optimizes hydroponics and its sole purpose is to obtain monetary profit from the wholesale of plant-based food for human or livestock consumption. Finally, the bill specifies that a CEA facility may not violate the terms of any applicable water court decree or materially injure water rights or conditional water rights.

Assumptions

For property tax years 2023 through 2027, this bill will likely reduce the amount of property tax revenue to local governments from CEA facilities. The bill clarifies that CEA facilities will be valued as all other agricultural property using the cost, market, and income approaches. Additionally, personal property and agricultural equipment associated with such facilities will be exempt from property tax. Because no specific classification codes currently exist for CEA facilities, it is unknown how many such facilities currently exist or what their net operating income is. The current classifications of such facilities may vary by county, and would likely be either “commercial” or “all other agricultural property”.

State Expenditures

Division of Property Taxation (DPT). In FY 2022-23, the DPT will update training materials, conduct additional training and respond to inquiries. This will be accomplished within existing resources.

School finance. To the extent that the bill results in the reduction in property taxes paid by CEA facilities, the bill will reduce property tax revenue to school districts with these facilities. If the budget stabilization factor is unchanged, state aid will offset the property tax revenue decrease. The magnitude of this impact is currently unknown.

Local Government

County assessors. County assessors will be required to monitor annually the existence and use of CEA facilities. Some county assessors may require additional staff to accomplish these tasks, particularly in counties where CEA facilities already exist or are forthcoming.

Property tax revenue. As stated in the Assumptions section, this fiscal note expects a reduction in local government property taxes. The reduction will depend on the number of qualified CEAs, and the amount of agricultural equipment and personal property associated with each CEA.

Effective Date

The bill was signed into law by the Governor on May 20, 2022, and takes effect August 9, 2022, assuming no referendum petition is filed.

State and Local Government Contacts

Agriculture
County Assessors
Municipalities

Counties
Property Tax Division - Local Affairs
Special Districts