

**JBC STAFF FISCAL ANALYSIS  
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING STATE LAND USE REQUIREMENTS, AND, IN CONNECTION THEREWITH, ESTABLISHING A PROCESS TO DIAGNOSE AND ADDRESS HOUSING NEEDS ACROSS THE STATE, ADDRESSING REQUIREMENTS FOR THE REGULATION OF ACCESSORY DWELLING UNITS, MIDDLE HOUSING, TRANSIT-ORIENTED AREAS, KEY CORRIDORS, AND MANUFACTURED AND MODULAR HOMES, PROHIBITING CERTAIN PLANNED UNIT DEVELOPMENT RESOLUTIONS, PROHIBITING A LOCAL GOVERNMENT FROM ENFORCING CERTAIN OCCUPANCY LIMITS, MODIFYING THE CONTENT REQUIREMENTS FOR COUNTY AND MUNICIPAL MASTER PLANS, PROHIBITING CERTAIN MUNICIPALITIES FROM IMPOSING MINIMUM SQUARE FOOTAGE REQUIREMENTS FOR RESIDENTIAL UNITS, REQUIRING ENTITIES TO SUBMIT A COMPLETED AND VALIDATED WATER LOSS AUDIT REPORT TO THE COLORADO WATER CONSERVATION BOARD, PROHIBITING A UNIT OWNERS' ASSOCIATION FROM PROHIBITING CERTAIN KINDS OF HOUSING, REQUIRING THE TRANSPORTATION COMMISSION AND THE DEPARTMENT OF TRANSPORTATION TO MODIFY THE STATE HIGHWAY ACCESS CODE, CRITERIA FOR CERTAIN GRANT PROGRAMS, AND EXPENDITURES FROM THE MULTIMODAL TRANSPORTATION OPTIONS FUND TO ALIGN WITH STATE STRATEGIC GROWTH OBJECTIVES, AND MAKING AN APPROPRIATION.

Prime Sponsors: Senator Moreno  
Reps. Jodeh and Woodrow

JBC Analyst: Andrea Uhl  
Phone: 303-866-4956  
Date Prepared: April 25, 2023

**Appropriation Items of Note**

**Appropriation Already Added to Bill, Amendment in Packet**

**General Fund Impact**

**Fiscal Impact of Bill as Amended to Date**

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/05/23.

	<b>No Change:</b> Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	<b>Update:</b> Fiscal impact has changed due to <i>new information or technical issues</i>
<b>XXX</b>	<b>Update:</b> Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
<b>XXX</b>	<b>Non-Concurrence:</b> JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The Local Government & Housing Committee Report (04/18/23) includes amendments to the bill. The amendments allow the \$15.0 million General Fund appropriation to the Housing Plans Assistance Fund to be expended through the FY 2026-27 state fiscal year. However, an appropriation

to provide the Department of Local Affairs with spending authority from the Housing Plans Assistance Fund is required but absent from the introduced version of the bill and the amendments.

The Legislative Council Staff Fiscal Note (04/05/23) correctly identifies a required \$15.0 million General Fund appropriation to the Housing Plans Assistance Fund. Because the Fund is subject to annual appropriation, the Department of Local Affairs also requires an appropriation of reappropriated funds from the Housing Plans Assistance Fund. The Fiscal Note estimates expenditures for the Department of Local Affairs for FY 2023-24 and FY 2024-25. Due to the amendments discussed above, JBC staff assumes the full \$15.0 million should be appropriated in FY 2023-24 with authority to expend remaining funds in subsequent fiscal years.

The Fiscal Note does not identify a required General Fund appropriation to the Department of Local Affairs outside of the \$15.0 million appropriated to the Housing Plans Assistance Fund. However, the Department's responses to Legislative Council Staff clearly indicate that the bill causes a permanent FTE impact that should be paid from the General Fund. The estimated permanent FTE impact is 1.1 FTE and \$102,556 General Fund in FY 2023-24, increasing to 9.6 FTE and \$1,141,791 General Fund in FY 2024-25 and 10.7 FTE and \$1,496,637 General Fund in later years.

The Legislative Council Staff Fiscal Note (04/05/23) identifies required appropriations to the Department of Natural Resources totaling \$500,000 cash funds from the Colorado Water Conservation Board Construction Fund and \$55,614 from the General Fund. However, the Department's responses to Legislative Council Staff indicate these amounts should be \$471,350 from the Colorado Water Conservation Board Construction Fund and \$78,529 from the General Fund.

**Amendments in This Packet for Consideration by Appropriations Committee**

<b>Amendment</b>	<b>Description</b>
J.001	Staff-prepared appropriation amendment
L.073/J.002	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation

**Current Appropriations Clause in Bill**

The bill includes an appropriation clause that appropriates \$15.0 million General Fund to the Housing Plans Assistance Fund in the Department of Local Affairs. The appropriation clause does not include an appropriation from the Housing Plans Assistance Fund to the Department of Local Affairs, nor does it include required appropriations to the Department of Natural Resources and the Colorado Energy Office identified in the Legislative Council Staff Fiscal Note.

The Local Government & Housing Committee Report (04/18/23) includes an amendment to the appropriation clause that adds a provision allowing the Department of Local Affairs and local grantees to expend funds appropriated in FY 2023-24 through state fiscal year 2026-27 without further appropriation. However, this provision is attached to a General Fund appropriation into the Housing Plans Assistance Fund which does not include an appropriation for the Department of Local

Affairs to expend funds from the cash fund.

### Description of Amendments in This Packet

**J.001** Staff has prepared amendment **J.001** (attached) to add a provision that:

- Makes corrections to the appropriation clause in the introduced version of the bill as amended by the Local Government & Housing Committee Report (04/18/23).
- Appropriates a total of \$15,102,556 to the Department of Local Affairs for FY 2023-24, including \$102,556 General Fund and \$15,000,000 reappropriated funds from the Housing Plans Assistance Fund. This provision also states that the appropriation is based on the assumption that the Department will require an additional 11.5 FTE, and that the appropriation from the Housing Plans Assistance Fund remains available for further expenditure through the 2025-26 state fiscal year.
- Appropriates a total of \$549,879 to the Department of Natural Resources, including \$78,529 General Fund and \$471,350 cash funds from the Colorado Water Conservation Board Construction Fund. This provision also states that the appropriation is based on the assumption that the Department of Natural Resources will require an additional 1.5 FTE.
- Appropriates a total of \$27,001 General Fund to the Colorado Energy Office in the Office of the Governor. This provision also states that the appropriation is based on the assumption that the Office will require an additional 0.2 FTE.

### L.073 and J.002

Bill sponsor amendment **L.073** (attached) is a strike-below amendment that substantially rewrites the bill. The amendment removes the sections of the bill related to zoning preemptions, in addition to other significant changes.

Legislative Council Staff and Joint Budget Committee Staff are unable to fully analyze the fiscal impact of **L.073** at this time. Amendment **L.073** retains the \$15.0 million General Fund appropriation to the Housing Plans Assistance Fund in the Department of Local Affairs included in the introduced bill. Therefore, JBC Staff assumes that the Department of Local Affairs requires a corresponding appropriation from the Housing Plans Assistance Fund. Amendment **L.073** eliminates the requirements related to water loss audit reports; **J.002** therefore excludes the appropriation from the Colorado Water Conservation Board Construction Fund that was included in **J.001**. The Department of Natural Resources and the Colorado Energy Office will still have costs related to the multi-agency advisory committee; those costs are retained in **J.002**.

Staff has prepared amendment **J.002** (attached) to add a provision to amendment **L.073** that:

- Makes corrections to the appropriation clause included in **L.073**.
- Appropriates a total of \$15,102,556 to the Department of Local Affairs for FY 2023-24, including \$102,556 General Fund and \$15,000,000 reappropriated funds from the Housing Plans Assistance Fund. This provision also states that the appropriation is based on the assumption that the Department will require an additional 11.5 FTE, and that the

## SB23-213

## JBC Staff Analysis

appropriation from the Housing Plans Assistance Fund remains available for further expenditure through the 2025-26 state fiscal year.

- Appropriates a total of \$78,529 General Fund to the Department of Natural Resources for FY 2023-24. This provision also states that the appropriation is based on the assumption that the Department of Natural Resources will require an additional 0.9 FTE.
- Appropriates a total of \$27,001 General Fund to the Colorado Energy Office in the Office of the Governor. This provision also states that the appropriation is based on the assumption that the Office will require an additional 0.2 FTE.

**If the Committee adopts L.073, it should also adopt J.002 and not J.001.**

### Points to Consider

#### *General Fund Impact*

The Joint Budget Committee has proposed a budget package for FY 2023-24 based on the March 2023 Office of State Planning and Budgeting (OSPB) revenue forecast. The budget package includes two set-asides for legislation outside of the package: (1) \$30.0 million General Fund for bills that create ongoing obligations; and (2) \$469.0 million for bills that create one-time obligations for FY 2023-24 (see table below).

General Fund Appropriation Placeholders for Other 2023 Legislation	
Description	FY 2023-24
Legislation with Ongoing Fiscal Impacts	\$30,000,000
Legislation with One-time Fiscal Impacts	
Workforce-related legislation, including free credentials, math scholarships, adult education, and concurrent enrollment	103,000,000
Housing-related legislation, including property tax relief, land use, and public-private partnerships	221,000,000
Legislation related to topics other than workforce and housing, including rural opportunity, line of duty loss, and Proposition 122 implementation	145,000,000
Subtotal	\$469,000,000
<b>TOTAL Placeholders for Other 2023 Legislation</b>	<b>\$499,000,000</b>

The budget package accounts for the 15.0 percent reserve associated with the above placeholders (a total of \$74.9 million).

The JBC has included as part of its FY 2023-24 budget package \$221,000,000 General Fund for housing-related legislation with one-time fiscal impacts, which includes this bill. This bill creates an ongoing obligation and requires a General Fund appropriation of \$208,086 for FY 2023-24, reducing the \$30.0 million set aside by the same amount. The ongoing General Fund impact

## **SB23-213**

## **JBC Staff Analysis**

increases to an estimated \$1.3 million in FY 2024-25 and \$1.6 million in FY 2025-26 and later years.

The fiscal impacts of bill sponsor amendment **L.073** have not been fully analyzed. Although **L.073** retains the \$15.0 million General Fund appropriation to the Housing Plans Assistance Fund in the Department of Local Affairs, the cost to the Department may be determined to be substantially less than \$15.0 million after an updated fiscal analysis is completed. The ongoing General Fund impacts discussed above are likely to change as well.