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Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:
Prime Sponsors:

LLS 23-0890
Sen. Moreno
Rep. Jodeh; Woodrow

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Bill Status: Deemed Lost
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Bill Topic: LAND USE

Summary of Fiscal Impact:

- State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

The bill would have required the Department of Local Affairs to adopt model codes to increase higher density housing options and to create methodologies for assessing and planning for residential housing needs.

Appropriation Summary:

For FY 2023-24, the bill requires and includes appropriations totaling about \$15.7 million to multiple state agencies.

Fiscal Note Status:

This fiscal note reflects the reengrossed bill, as amended by the House Transportation, Housing and Local Government Committee and by the House Appropriations Committee.

Table 1
State Fiscal Impacts Under SB 23-213

Table with 3 columns: Category, Budget Year FY 2023-24, Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers (General Fund, Cash Funds, Net Transfer), and Other Budget Impacts (General Fund Reserve).

1 Expenditures in DOLA are supported by an appropriation of \$15 million from the Housing Plans Assistance Fund, which may be spent through FY 2025-26. The timing of expenditures may differ from this estimate.
2 This transfer is made via an appropriation from the General Fund to the Housing Plans Assistance Fund.

Summary of Legislation

The bill creates several advisory committees and requires the Department of Local Affairs (DOLA) to collaborate with multiple state agencies to develop strategic growth objectives, guidance and assistance in assessing and planning for statewide housing development by local governments. Local governments are required to incorporate growth objectives into their master planning process.

Advisory Committees and Oversight

Multi-agency advisory committees. The bill creates the Multi-Agency Advisory Committee in the DOLA comprised of representatives from the department, the Colorado Energy Office (CEO), the Colorado Department of Transportation (CDOT), the Department of Natural Resources (DNR), the Department of Agriculture (CDA), metropolitan planning organizations, local governments, and other land use professionals. Within the committee, the bill creates the Rural Resort Area Subcommittee, and the Urban Area Subcommittee. The subcommittees must develop recommendations to present to the advisory committee concerning housing and land use matters specific to rural resort areas and urban areas.

Advisory committee reports. By 2024, the Multi-Agency Advisory Committee shall report to the General Assembly recommendations to address long-term housing supply and affordability needs that conserves water, open space and agricultural land, reduces greenhouse gas emissions to meet state targets, reduces near-road air pollution, and reduces long-term infrastructure costs.

The Multi-Agency Advisory Committee must provide guidance for the completion of a strategic growth and housing mix analysis. By 2025, the Urban Area Subcommittee must issue a report to DOLA on the opportunities and challenges of regional planning in urban regions, and the Rural Resort Area Subcommittee must issue a report on regional planning in rural resort areas.

By June 30, 2025, the Multi-Agency Advisory Committee must report to DOLA and the General Assembly on an assessment of the availability and sufficiency of water supplies in counties with more than 250,000 residents, and policy options for water use efficiency and water supply and development. The report is reviewed and co-submitted by the DNR. By 2025, the advisory committee must report to CDOT identifying key corridors for urban bus rapid transit service and frequent bus service.

Legislative Oversight Committee and task forces. The bill creates the Legislative Oversight Committee Concerning Affordable Housing and Homelessness. Comprised of six legislators, the oversight committee must be appointed during the 2024 legislative session. The bill creates a 25-member Task Force Concerning Affordable Housing and Homelessness under the legislative oversight committee, including representatives from nine state agencies, and 16 appointed members representing various stakeholders. All members serve without compensation, but the appointed members may receive reimbursement for expenses. The taskforce may create up to three subcommittees which may include members who are not on the taskforce.

Department of Local Affairs

Statewide summit. By April 15, 2024, DOLA must hold both a statewide summit, and at least six regional meetings throughout the state, to discuss and develop solutions for issues of land use, housing availability and affordability, water availability, and transportation.

Housing needs assessment methodology, planning, and guidance. DOLA must issue a methodology for developing housing needs assessments. By 2025, DOLA must use the methodology to produce statewide, regional and local housing needs assessments, and issue guidance for local governments to create local housing needs plans. By 2026, DOLA must develop reporting guidance and templates for local governments to submit specified housing data to the department concerning zoning information, unit development, and housing permitting in the previous year.

Displacement risk assessment and mitigation strategies. Displacement refers to the involuntary relocation of residents due to new development. By 2025, DOLA must develop a displacement risk assessment and mitigation strategies. The department must specify the number of strategies that must then be selected to guide urban and rural resort municipality planning. The bill specifies issues to consider in developing guidance for displacement and the mitigation strategies that must be included in local housing needs plans.

Strategic growth objectives. By March 31, 2024, DOLA must publish a report identifying multi-agency implementation principles to achieve strategic growth objectives that guide public agencies in implementing the bill. The bill defines the minimum standards for drafting the growth objectives.

Technical assistance. The Division of Local Government in DOLA must provide technical assistance, training, consulting services, and other guidance to aid local governments and metropolitan planning organizations with displacement assessment, mitigation strategies, housing needs assessments, water conservation policies, master planning, and data reporting.

State funding. The division must provide assistance funding through either a grant program or consultant services and the bill specifically authorizes DOLA to employ full-time staff to provide educational resources and assistance to local governments. The bill creates the Housing Plans Assistance Cash Fund for use by the division to provide assistance to local governments. For FY 2023-24, the bill appropriates \$15.0 million from the General Fund to the assistance fund.

Model codes.

Accessory dwelling units. The bill requires that the DOLA adopt a model code for accessory dwelling units, which at a minimum, must allow accessory dwelling units as a use by right in any area of a municipality that allows single-unit detached dwellings as a use by right, and must not include any requirement for off-street parking. Municipalities are required to adopt the model code, or adopt local codes meeting the statewide minimum standards developed by the DOLA. If a municipal government does not adopt the model code, the municipality must use objective standards and procedures concerning accessory dwelling units and must not apply more restrictive standards than are used for permitting single unit detached homes.

By June 30, 2025, subject jurisdictions must adopt local codes that satisfy minimum standards or adopt the model code. Affected jurisdictions may apply to the DOLA for a time extension, but must

demonstrate that water services are currently deficient in a subject area, and include a plan to remedy any deficiency in water services. If the DOLA rejects a local plan, the model code goes into effect immediately until the DOLA determines that the subject jurisdiction has adopted laws meeting the minimum standards, or has adopted the model code.

Transit-oriented area model code. The DOLA must adopt a transit-oriented area model code. The bill details the minimum standards for a transit-oriented area model code. A subject jurisdiction may adopt the model code but may not adopt local laws that are more restrictive of high density housing in a transit-oriented area. A subject jurisdiction that does not adopt the model code must create a zoning district within transit-oriented areas and allow high density development that meet specific gross density requirements.

Key corridor model code. The department must adopt a key corridor model code with specified minimum standards. A subject jurisdiction that does not adopt the code must establish a district within key corridors that allows multifamily residential housing as a use by right, and that satisfies net residential zoning capacity established by minimum standards in the other model codes.

Other State Agencies

Department of Natural Resources. By June 30, 2025, DOLA and the DNR must jointly conduct a water supply forecast and jointly provide a report to the General Assembly that assesses availability and sufficiency of water supplies to provide for population growth, a framework to guide investments in water development and conservation, and options to maximize efficiency.

Governor's office. By 2025, The Governor's Office of Climate Preparedness must collaborate with natural resource agencies to develop a natural and agricultural land priorities report identifying inter-jurisdictional priorities that metropolitan planning organizations should apply to achieve connectivity to open space, and to preserve agricultural land and other historic or cultural resources.

Department of Transportation. CDOT must align prioritization criteria for future transportation systems and for existing grant programs to be consistent with strategic growth objectives for regionally significant transportation projects. Beginning 2025, spending from the Multi-modal Transportation Options Fund must be consistent with the state's strategic growth objectives.

Local Governments

Local master planning. By 2025, urban and rural resort job center municipalities must use guidance issued by DOLA to develop a displacement risk assessment and description of selected mitigation strategies for inclusion in housing needs plans. The bill specifies the affordable development standards that must be included in an urban municipalities' housing needs plan. By 2027, municipalities must use the guidance to develop a housing needs plan.

The bill specifies requirements for local master plans amended or adopted after June 30, 2024, which must include natural and agricultural land priorities, a housing element, information from a required strategic growth and housing mix analysis, infrastructure gaps, transportation analysis, a water supply element, among other elements. Master plans must be submitted to DOLA for review and comment.

Prohibited ordinances. The bill prohibits a local government from enacting or enforcing laws on residential occupancy limits that differ based on the relationships of the occupants, and from imposing more restrictive permitting standards on manufactured and modular homes than those imposed on site-built homes in the same residential area.

Homeowners' associations. The bylaws and covenant restriction of a Homeowners Association (HOA) may not prohibit accessory dwelling units, middle housing in transit-oriented areas, or housing in key corridors.

State Revenue

The bill potentially increases state revenue to the Housing Plans Assistance Fund from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

State Transfers

For FY 2023-24, the bill requires that \$15.0 million be appropriated from the General Fund to the Housing Plans Assistance Fund.

State Expenditures

The bill increases state expenditures in the multiple departments by about \$14 million in FY 2023-24, and by about \$3 million in FY 2024-25. Increased expenditures continue into future years.

Expenditures in the DOLA are paid from the Housing Plans Assistance Fund. In addition to DOLA, the bill increases state expenditures in the departments of Natural Resources, paid from the General Fund and cash funds, and in the Governor's office, and the Legislative Department, paid from the General Fund. New state expenditures are shown in Table 2 and detailed below.

Table 2
State Expenditures under SB 23-213

	FY 2023-24	FY 2024-25
Department of Local Affairs¹		
Personal Services	\$1,059,002	\$1,133,835
Operating Expenses	\$15,525	\$16,470
Capital Outlay Costs	\$20,040	-
Computer Programming	\$15,015	\$5,760
Consultant Pool & Tech. Assistance	\$11,741,160	\$1,485,000
Travel & Vehicle Lease	-	\$13,214
Centrally Appropriated Costs ²	\$225,978	\$240,707
FTE – Personal Services	11.5 FTE	12.2 FTE
DOLA Subtotal	\$13,076,720	\$2,894,986

**Table 2
State Expenditures under SB 23-213 (Cont.)**

Department of Natural Resources		
Personal Services	\$76,919	\$76,919
Operating Expenses	\$1,350	\$1,350
Capital Outlay Costs	\$6,670	-
Contractor - CWCB	\$540,170	-
Centrally Appropriated Costs ²	\$18,225	\$18,225
FTE – Personal Services	1.0 FTE	1.0 FTE
DNR Subtotal	\$643,334	\$96,494
Governor’s Office		
Personal Services	\$29,455	\$29,455
Contractor	\$100,000	-
Centrally Appropriated Costs ²	\$6,067	\$6,067
FTE – Personal Services	0.3 FTE	0.3 FTE
Governor’s Office Subtotal	\$135,522	\$35,522
Legislative Department		
Personal Services	\$36,349	\$38,040
Operating Expenses	\$675	\$675
Capital Outlay Costs	\$6,670	-
Member Per Diem	\$10,202	\$10,202
Centrally Appropriated Costs ²	\$9,071	\$9,071
FTE – Personal Services	0.5 FTE	0.5 FTE
Legislative Department Subtotal	\$62,967	\$57,988
Total	\$13,918,543	\$3,078,924
Total FTE	13.3 FTE	14.0 FTE

¹ Expenditures in DOLA are supported by a \$15 million appropriation in FY 2023-24 that may be spent through FY 2025-26. The timing of expenditures may differ from this estimate.

² Centrally appropriated costs are not included in the bill's appropriation.

Department of Local Affairs

Personal services. DOLA will add new staff in the Division of Local Government, the State Demography Office, and the Division of Housing to develop comprehensive statewide planning methodologies and assessments and to assist local governments to do the same. This includes publishing a strategy of affordable housing options and displacement mitigation menus for use by municipalities and other local governments. Staff costs include some travel expenses beginning in FY 2024-25. Costs include standard operating and capital outlay costs.

Consultant pool & technical assistance. The bulk of expenditures are for technical assistance, reporting guidance, support for locally developed housing needs assessments, and other assistance provided to local governments to adopt master planning documents meeting minimum standards, and to comply with new reporting requirements to the state. These technical assistance costs are identified in FY 2023-24, and are part of the FY 2023-24 fiscal year appropriation; however, actual expenditures are likely to roll forward into FY 2024-25.

Department of Natural Resources

Personal services. The executive director's office requires 1.0 FTE term-limited policy advisory to participate and provide staff support to the multi-agency advisory committee through FY 2025-26.

Colorado Water Conservation Board. The CWCB requires a contractor for research and data analysis to prepare the required water supply forecast and report with DOLA, to assess availability and sufficiency of water supplies, and recommend guidance in development and conservation of water resources.

Governor's Office

Colorado Energy Office. The CEO will have personal service costs to participate in the multi-agency advisory committee making recommendations to DOLA on the requirements for model codes and other deliverables. Personal service costs include only the salary expense for 0.3 FTE in both FY 2023-24, and FY 2024-25. First-year costs are prorated for the General Fund pay date shift.

Climate Preparedness Office. The office has one-time contractor costs to collaborate with natural resource agencies to develop a natural and agricultural land priorities report.

Legislative Department

The Legislative Department will have increased costs to staff the legislative oversight committee and for member travel expenses and per diem. This estimate assumes six members conducting six meetings in both FY 2023-24 and FY 2024-25. Costs for the department assume only staff support for the legislative oversight committee and not for any task forces or subcommittees.

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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other State Agencies

The bill increases workload in the Department of Transportation, the Department of Agriculture, Colorado Parks and Wildlife, and the Outdoor Recreation Industry Office in the Office of Economic Development and International Trade. Broadly, these agencies must expend staff time to participate in committees. Costs increase in the Department of Law to assist DOLA and the DNR with legal services related to statewide planning. This additional workload is not anticipated to require

additional appropriations. Costs that exceed a department's existing resources must be addressed through the annual budget process.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

This bill has extensive fiscal impacts for applicable jurisdictions, including large urban municipalities, some smaller municipalities in metro areas, and rural resort job center municipalities. Additional research is necessary to identify affected jurisdictions and deadlines for specific compliance. Generally, municipal governments and some county governments must update local code, submit proof of compliance, update posted materials, complete greenfield analyses, complete housing plans, submit housing plans, participate in regional planning groups, conduct public outreach and hearings, and respond to modification requests from the state and revise as necessary. Planning and reporting activities recur every five years. Initial compliance tasks are estimated by the DOLA at an average of \$29,500 per jurisdiction for initial compliance, and \$120,000 per jurisdiction every 5 years for the required periodic updates.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2023-24, the bill requires and includes the following appropriations:

- \$15,000,000 from the General Fund to the Housing Plans Assistance Fund (to make the transfer described in the State Transfer section above);
- \$15,000,000 from the Housing Plans Assistance Fund to the Department of Local Affairs, and 11.5 FTE, which may be spent through FY 2025-26;
- \$540,170 from the Colorado Water Conservation Board Construction Fund to the Department of Natural Resources;
- \$84,939 from the General Fund to the Department of Natural Resources, and 1.0 FTE;
- \$129,455 from the General Fund to the Governor's Office and 0.3 FTE; and
- \$53,896 from the General Fund to the Legislative Department, and 0.5 FTE.

State and Local Government Contacts

Counties
Law
Natural Resources
Special Districts

Governor
Local Affairs
Public Safety
Transportation

Judicial
Municipalities
Regulatory Agencies