SB12-052

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 12-0517	**Date:**	February 14, 2012
Prime Sponsor(s):	Sen. Scheffel Rep. Priola	**Bill Status:**	Senate Finance
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING A PROPERTY TAX EXEMPTION FOR BUSINESS PERSONAL PROPERTY.

Fiscal Impact Summary	FY 2012-13	FY 2013-14	FY 2014-15	FY 2021-22
State Revenue General Fund	$126,543	$253,086	$451,245	$2.6 million
State Expenditures School Finance Impact* General Fund	$496,687 25,041	$4.6 million 25,041	$8.3 million 25,041	$48.2 million 25,041
FTE Position Change	0.4 FTE	0.4 FTE	0.4 FTE	0.4 FTE
Effective Date: August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.				
Appropriation Summary for FY 2011-12: See State Appropriations section.				
Local Government Impact: Local governments would no longer be able to collect property tax on business personal property valued at less than $14,000 and on value above the specified cap for state assessed public utilities. This will result in local government revenue reduction of $1.3 million in FY 2012-13 and $11.9 million in FY 2013-14.				

* *This expenditure will come from the General Fund.*

Summary of Legislation

Under current law, the property tax exemption for business personal property on a single personal property schedule is $5,500 for property tax years 2011 and 2012, $7,000 for property tax years 2013 and 2014, and an inflation-adjusted amount every two years thereafter. This bill increases the exemption for property tax years 2013 and 2014 to $14,000, which in turn increases the future inflation-adjusted amount of the exemption.

For property tax years 2012 through 2022, the bill also caps a portion of the business personal property tax liability of a state assessed public utility at the actual value of the public utility's operating property and plant for the 2011 property tax year, plus an annual growth factor. The 2011 actual value is defined as the base year. The growth factor is set at 2.0 percent of the base valuation for each of the first five property tax years and 1.0 percent of the base valuation for the last five property tax years.

Background

Under current law, business personal property begins to be taxed the year *after* it is first used. For example, new personal property first used in 2012 will appear on the tax rolls in 2013, and have taxes paid on it in 2014.

In 2011, business personal property represented slightly over $12.2 billion in statewide assessed value, or roughly 18 percent of all nonresidential property assessed value. Based on 2010 average county-wide mill levies, this value translates into approximately $886 million in local property taxes that will be collected in 2012.

State Revenue

Beginning in FY 2012-13, this bill decreases property tax revenue by capping the actual value of personal property subject to property tax for public utilities. Starting in FY 2013-14, the bill also reduces property tax revenue by increasing the minimum exemption level to $14,000. The decrease in property tax liability will increase a company's state income tax liability by reducing the available property tax deduction. This revenue impact is estimated to be $126,543 for FY 2012-13, $253,086 for FY 2013-14, and $451,245 for FY 2014-15. On an accrual accounting basis, one-half of the FY 2013-14 amount would be received in FY 2012-13. In FY 2021-22, income tax revenue will increase by an estimated $2.6 million.

To the extent that the exemption contained in this bill generates additional economic activity that would not have otherwise occurred, the state may receive additional sales and income tax revenue. Any potential increase in revenue, however, would be offset: 1) to the degree that tax savings realized by businesses are spent outside of Colorado; and 2) to the degree that reduced spending by local governments reduces economic activity in their communities.

State Expenditures

School Finance Act. The state's share of public school total program funding will increase by the amount of local property taxes foregone by increasing the minimum exemption for business personal property and capping the property tax liability for public utilities. This bill will reduce local school district property tax revenue by an estimated $496,687 in FY 2012-13, $4.6 million in FY 2013-14, $8.3 million in FY 2014-15, and $48.2 million in FY 2021-22, the last year of the public utility valuation cap.

The first, direct impact results from capping personal property tax liability for state assessed public utilities. Based on roughly 600 existing public utility accounts and historical growth rates for personal property in this sector, a minimum of $24.2 million in assessed value would be exempted in 2012, $140.2 million in 2013, and $314.0 million in 2014. To the extent that utilities have significant capital investments coming on line during this period, these numbers may underestimate the loss in assessed value. Beginning in 2013, raising the minimum exemption from $7,000 to $14,000 for both locally and state assessed property will result in an additional loss in assessed value of $86.0 million, an amount which will grow thereafter.

Based on the statewide average school operating mill levy, this would result in an estimated $496,687 reduction in school district property taxes in FY 2012-13 that must either be replaced by state aid or cut from school district funding. In subsequent years, the property tax loss increases to $4.6 million in FY 2013-14 and $8.3 million in FY 2014-15. In FY 2021-22, the last year of the 10-year period where the bill caps public utility personal property tax liability, the reduction in school district property taxes is estimated to be $48.2 million. This amount represents an increase to the state's contribution for a given level of public school funding. If the state chooses not to fund this reduction in the local share, the negative factor in the school finance formula would increase.

A second, indirect impact potentially results from a drop in the residential assessment rate (RAR). Because a portion of business personal property will no longer be counted as nonresidential property in the RAR calculation, the RAR must decline in order to maintain the residential/nonresidential assessed value ratio required by the State Constitution under the Gallagher Amendment. Although the projected reduction due to this bill is not enough to affect the RAR and cause this indirect impact based on current projections, the increased exemption could trigger this impact if actual personal property purchases are higher than projected or there is an increase in the ratio of residential to non-residential assessed values. This additional reduction in assessed value would further reduce school district property taxes and could increase the state's obligation for school finance. This would affect every county in the state, albeit to varying degrees. Many rural counties tend to be less dependent on residential property, while mountain resort communities are more dependent.

Department of Local Affairs, Division of Property Taxation. In FY 2012-13 and thereafter, the division will incur additional administrative costs in the amount of $25,041 and 0.4 FTE.

These costs will be incurred by the State Assessed section of the division. In 2011, just over 41 percent of the total value of personal property was state assessed. Typically, state assessed property is valued using the unitary valuation approach, where the value of the whole company is apportioned geographically depending on the company's operations.

Additionally, capping the amount of actual value that would be included in a utility's property tax liability would require the division to:

- track the value cap and compare it to current value for each of the 600 utility accounts;
- establish a system for tracking and monitoring new public utilities and mergers and acquisitions; and
- track changes in the value cap resulting from appeals.

Expenditures Not Included

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 summarized in Table 1.

Table 1. Expenditures Not Included Under SB12-052*		
Cost Components	**FY 2012-13**	**FY 2013-14**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$3,105	$3,105
Supplemental Employee Retirement Payments	$1,365	$1,567
TOTAL	**$4,470**	**$4,672**

**More information is available at: http://colorado.gov/fiscalnotes*

Local Government Impact

Beginning in 2012, local government entities will be unable to collect property taxes on business personal property above the specified cap for state assessed utilities. In 2013, the minimum personal property exemption will increase from $7,000 to $14,000, adjusted for inflation thereafter. Overall, local non-school operating property taxes are estimated to decline by up to $1.3 million in FY 2012-13, $11.9 million in FY 2013-14, and $21.3 million in FY 2014-15. In FY 2021-22, the reduction in non-school operating property taxes is estimated to be up to $124.0 million. This estimate does not include a RAR reduction, which could increase the reduction substantially.

It should be noted that this number represents a maximum amount. The loss will be smaller for local governments that have not received voter approval to retain property taxes above their constitutional limit and have collected an amount above this limit. In these cases, the exemption of new personal property will cause smaller decreases in the local government's mill levy than would have occurred otherwise to prevent property taxes from exceeding the limit.

Further, an additional impact occurs if the local government has received voter approval and imposed a specific mill levy to repay outstanding general obligation debt or to collect a specific amount of additional property tax revenue. In such cases, a reduction in assessed value from the provisions in this bill and potentially decreasing the RAR will result in higher mill levies being imposed on all real property owners in the jurisdiction, in order to repay the debt or generate the revenue authorized by the jurisdiction.

Finally, to the extent that the exemption contained in this bill spurs investment in personal property that would not have otherwise occurred, in the short term, local governments may receive additional property tax revenue that partially offsets the losses described above.

School District Impact

This bill is estimated to reduce the local share of funding for public schools by up to $496,687 in FY 2012-13, $4.6 million in FY 2013-14 and $8.3 million in FY 2015-16. This reduction will either be replaced by state aid or the negative factor in the school finance formula will grow, reducing overall funding for school districts. In addition, override levies approved by districts to provide a specific level of funding may increase to offset the drop in assessed values. In contrast, districts that approved a specific override mill levy will lose funding due to the decrease in assessed value. Finally, districts with bonded debt, which often have floating rates to produce a certain revenue level, will collect additional property taxes from taxpayers other than the businesses affected by the provisions of this bill.

Pursuant to Section 22-32-143, C.R.S., as specified by House Bill 11-1277, school districts and Boards of Cooperative Educational Services (BOCES) may submit estimates of fiscal impacts within seven days of a bill's introduction. As of the date of this fiscal note, no summaries of fiscal impacts were submitted by districts or BOCES for this bill. If summaries of fiscal impacts are submitted by districts or BOCES in the future, they will be noted in subsequent revisions to the fiscal note and posted at this address: http://www.colorado.gov/lcs

State Appropriations

Implementation of this bill requires a General Fund appropriation increase of $496,687 million in FY 2012-13 for school funding under the Public School Finance Act. In addition, the Department of Local Affairs will require a General Fund appropriation of $25,041 and authorization for 0.4 FTE.

Departments Contacted

Property Tax Administrator