HB14-1375

Colorado Legislative Council Staff Fiscal Note

STATE, LOCAL, and STATUTORY PUBLIC ENTITY FISCAL IMPACT

Drafting Number:	LLS 14-0950	**Date:**	April 16, 2014
Prime Sponsor(s):	Rep. DelGrosso Sen. Tochtrop	**Bill Status:**	House Finance
		Fiscal Analyst:	Alex Schatz (303-866-4375)

SHORT TITLE: URBAN REDEVELOPMENT FAIRNESS ACT

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	Minimal workload increase. See State Expenditures section.	
FTE Position Change		
Appropriation Required: None.		

* *This summary shows changes from current law under the bill for each fiscal year.*

Summary of Legislation

This bill amends statutes governing the exercise of urban renewal authority by municipalities. As described in detail below, the bill:

- modifies the composition of an urban renewal authority;
- specifies the manner in which certain excess funds are redistributed to other local taxing entities; and
- establishes new conditions for the use of tax increment financing (TIF).

Composition of an urban renewal authority. Under current law, the governing body of a municipality determines the number of commissioners on an urban renewal authority and may designate itself as the commissioners or the mayor appoints the commissioners. The bill requires one member of the urban renewal authority to be appointed by the county commissioners of the county in which the municipality resides. This provision does not apply to consolidated city and county governments in Denver and Broomfield.

Redistribution of excess funds. Under current law, when the purposes of a TIF have been fulfilled, excess TIF revenue must be redirected to the local taxing entities responsible for the original tax levy. The bill specifies that any excess revenue collected by the urban renewal authority and deposited into its special fund must be repaid to local taxing authorities pro rata.

Conditions to use tax increment financing. Under current law, urban renewal authorities may negotiate with other taxing entities to share a portion of TIF revenue, but are not required to do so. The bill requires that the percentage of property tax increment allocated through an urban renewal plan does not exceed the percentage of municipal sales tax revenue unless a specific allocation has been negotiated with the other affected local taxing entity. Certain municipal contributions to urban renewal count toward the percentage of sales tax revenue, while any amount of sales tax rebated or exempted does not count toward this percentage.

Background

TIF increments. Tax increment financing (TIF) is a tool used to generate capital for urban renewal projects, setting aside growth over and above an existing property tax and municipal sales tax revenue stream for the repayment of bonds or for another specific purpose. The tax increment is identified as the difference between the initial revenue base within the TIF district and the amount of additional tax collections after the TIF is established. Base revenues are unaffected by the TIF, but tax collections above the base are subject to allocation by the urban renewal authority. Current law provides that the use of TIF authority does not require a municipality or any other public body to levy taxes.

Urban renewal projects. Urban renewal, including TIF, can be employed to assist a variety of projects, with urban renewal plans that replace blighted conditions with housing, mixed use, office parks, industrial, or retail land use. In practice, regardless of land use, all successful urban renewal projects increase assessed values within an urban renewal area and generate a potential property tax increment. Projects with a retail component generate a potential municipal sales tax increment.

TIF allocations in current urban renewal plans. No data was available to estimate the number of affected urban renewal plans or financial exposure due to noncompliance with the bill. Some urban renewal plans provide flexibility for a project to be financed with less than 100 percent of the municipal sales tax increment, and various municipalities have not authorized a municipal sales tax increment for their urban renewal efforts. On the other hand, many urban renewal authorities finance urban renewal activities with the entire available increment, 100 percent of both the property tax increment and the municipal sales tax increment.

State Expenditures

Starting in FY 2014-15 and in future fiscal years, the bill results in a minimal workload increase for the Department of Local Affairs (DOLA) and the Department of Revenue (DOR). No new appropriations are required for these agencies to implement the bill.

DOLA. The bill results in increased workload for the Division of Local Government in DOLA to provide technical support to municipalities and other taxing entities affected by the bill. The Division of Property Taxation in DOLA will have a one-time workload increase in FY 2014-15 to update training materials and manuals to reflect changes in the bill.

DOR. The DOR collects sales tax revenue for statutory municipalities, as well as home rule municipalities that opt to delegate this function to the DOR. The bill may require changes to accounting procedures at the DOR to the extent that the allocation of municipal sales taxes is changed by the bill.

Local Government, School District, and Statutory Public Entity Impact

The bill may result in changes to the allocation of local tax revenue between entities that receive property tax revenue, including cities and towns, counties, special districts, school districts, junior colleges, and statutory public entities. The bill also results in workload impacts to municipal governments with urban renewal authorities using TIF, boards of county commissioners, and potentially county treasurers.

Local tax revenue. Urban renewal confers no new taxing authority on local government, and the bill therefore results in no net change in local government revenue. However, the bill may result in reallocation of the property tax base among local taxing entities when an urban renewal authority is not in compliance with the bill's requirement that an equal or negotiated percentage of the municipal sales tax increment and property tax increment be applied in urban renewal plans. The municipality and urban renewal authority have three options to achieve compliance in such circumstances:

- The property tax increment may be reduced to achieve compliance, with some new property tax above the base year amount flowing to the local taxing entity responsible for the levy. This option occurs by default under the bill—but see further discussion in the Technical Notes section.

- The percentage of municipal sales taxes allocated to the urban renewal authority may be increased, resulting in no change to property tax allocations but changing the relative amount of sales tax revenue between the municipality and its urban renewal authority. This option increases urban renewal revenue while reducing the municipal General Fund by an equivalent amount.

- Some combination of adjustments to both the percentage of property tax increment and percentage of municipal sales tax increment allocated in the urban renewal plan.

The bill may result in changes to the allocation of local tax revenue in cases where the percentage allocated to urban renewal from the property tax increment is reduced, either by default under the bill or based on modification of an urban renewal plan. The increase to other local taxing entities may be significant, especially if the change pertains to urban renewal plans with retail components and the local governing body does not wish to increase, or is fiscally incapable of increasing, the municipal sales tax increment.

See the Technical Notes section for further discussion of potential fiscal impacts related to the bill's property tax allocation limit.

Municipalities with urban renewal authorities. To the extent that an urban renewal authority must amend its plans, adjust mill levies, or refinance existing obligations to comply with the bill or to comply with other applicable law (e.g., the Taxpayer's Bill of Rights in the state constitution), workload and expenditures of the municipality will increase. Such modifications of urban renewal plans, other documents, and finances may range in effort from basic text edits to complex transactions involving bonds and other debt instruments, with a similarly wide range of associated costs.

Boards of county commissioners. Boards of county commissioners will experience increased workload for commissioners or their designees to attend the meetings of various urban renewal authorities within their county, and for county staff to support such participation when necessary. For counties with a number of municipalities with urban renewal authorities, this may require substantial effort.

County treasurers. The bill may result in a minimal workload increase for county treasurers, if adjustments to urban renewal plans and financing requires new calculation of affected property tax payments.

Technical Notes

The following technical notes may affect the fiscal impact of the bill:

- The fiscal note assumes that, on Page 5, lines 9-12 of the introduced bill, "the percentage of municipal sales tax revenues allocated to the authority" refers to municipal sales tax *increment* revenue. If a municipality were required under the bill to dedicate a percentage of *all municipal sales taxes*, as opposed to a percentage of the *municipal sales tax increment*, this would likely force most municipalities with urban renewal to forfeit the majority of property tax increment, to avoid diverting a majority of their General Fund exclusively to urban renewal.

- There is no defined method to credit or debit sales tax rebates and other miscellaneous municipal contributions to urban renewal (proposed paragraphs (9.5)(b) and (9.5)(c) of Section 31-25-107, C.R.S.) against the percentage of municipal sales tax revenue.

- Municipal revenue streams may be encumbered for other purposes. For example, property taxes collected by an existing urban renewal authority may be irrevocably pledged to the financing of a specific project (Section 31-25-107 (9)(b), C.R.S.). Likewise, municipal sales taxes may be specifically authorized for, and dedicated to, other special purposes, such as street improvement or open space sales taxes. Such encumbrances may conflict with reduced use of property tax or increased use of municipal sales tax, as may be required to comply with the bill.

- According to its Section 3 (nonstatutory provisions), the bill applies to urban renewal **projects** *originally approved on or after the bill's effective date* or the "modification or amendment of an urban renewal project in existence" when the bill takes effect. However, proposed Section 31-25-107 (9.5), C.R.S., governs allocation of the property tax increment according to an urban renewal **plan** "*as originally approved* and as it may be later modified." The fiscal note assumes that the applicability provisions in Section 3 eliminate any impact of the bill on TIF revenue from existing, unmodified urban renewal projects and plans; this assumption may clarified by amendments.

Effective Date

The bill takes effect August 6, 2014, if the General Assembly adjourns on May 7, 2014, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Local Affairs	Property Taxation	Revenue
Education	Clerk and Recorders	Counties
Municipalities	Special Districts	Public Trustees
Assessors		