HB15-1262

Colorado Legislative Council Staff Fiscal Note

FINAL FISCAL NOTE

Drafting Number: LLS 15-0852
Prime Sponsor(s): Rep. Rosenthal, Sen. Balmer
Date: June 29, 2015
Bill Status: Signed into Law
Fiscal Analyst: Alex Schatz (303-866-4375)

BILL TOPIC: CONTRACTUAL JOINT GOVERNMENTAL ENTITY POWERS

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
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 specifies the legal status and powers of a separate, contractually established entity formed by two or more governments to provide public improvements. When such an entity is formed through an intergovernmental agreement (IGA), and the IGA states an intent to be covered by the provisions of the bill, the entity:

- must adhere to certain organizational requirements in its enabling contract;
- is deemed a political subdivision of the state;
- may issue tax-exempt revenue bonds; and
- may generally acquire, lease, and sell property.

The IGA creating such a separate legal entity may grant the entity any power of a special district, except that no entity may levy taxes or acquire property through condemnation. The IGA must include provisions that result in the transfer or disposition of all property when the entity is dissolved.

Background

Current law authorizes IGAs that create legal entities to incur debt for the construction and operation of public improvements and public facilities, though most IGAs concern other matters. Examples of projects built or operated through IGAs in Colorado include public safety (e.g. fire station) buildings, transportation improvements, recycling facilities, and animal shelters. According to filings received by the Department of Local Affairs (DOLA), there are currently 39 IGA-created entities in Colorado.

Public agencies commonly utilize tax-exempt bonds to finance large capital projects. In a 2013 Technical Advice Memorandum, the United States Internal Revenue Service (IRS) found that only a political subdivision may issue tax-exempt debt, and that a community development district may lack sufficient public control to qualify as a political subdivision. This bill clarifies that IGA-created entities may issue tax-exempt debt.

DOLA receives filings related to the formation and organization of local government entities, as well as enforcing budget- and finance-related provisions of state law.

State Expenditures

The bill results in a minimal workload increase for DOLA, with the potential for significant work under certain circumstances.

Assumptions. While state agencies may participate in IGAs with local governments, the state does not generally use this IGA authority to participate in capital projects with local governments. The fiscal note assumes that projects affected by the bill are undertaken by two or more local governments. Affected projects will typically involve municipalities, counties, or the various types of special districts.

DOLA. The bill creates new guidelines, such as the prohibition of taxation, for certain IGA-created entities, and enforcement of these provisions will require DOLA staff time. In addition, to the extent that the bill enables IGA-created entities to be used to a greater degree than under current law, there may be an increase in DOLA workload. The overall increase in workload under the bill is expected to be minimal. However, a significant number of new IGA-created entities or compliance issues related to the bill may result in workload requiring new resources for DOLA, which would be requested in the annual budget process.

Local Government Impact

Clarifying the tax-exempt status of local government debt financing for IGA-created entities may increase the supply of debt-financed revenue to local governments in future fiscal years. The amount of revenue affected by the bill depends on the specific projects undertaken by these entities in the future and is not estimated for this analysis. To the extent that the bill increases utilization of IGA-created entities relative to current law, an increase in local government expenditures for bond counsel and related administrative costs to form such an entity will also result.

Because the bill makes the entity created by an IGA a political subdivision of the state, the fiscal note assumes that this clarification is generally adequate for an entity to issue tax-exempt bonds. However, to the extent that IRS determinations regarding eligibility to issue tax-exempt bonds are based on additional criteria, some debt-funded projects of IGA entities may continue to be precluded under federal law. This consideration is expected to have a minimal effect on local government bond revenue.

Effective Date

The bill was signed into law by the Governor and took effect on May 20, 2015.

State and Local Government Contacts

Municipalities	Counties	All Departments