SB15-089

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 15-0481	**Date:**	February 3, 2015
Prime Sponsor(s):	Sen. Garcia Rep. Vigil	**Bill Status:**	Senate SVMA
		Fiscal Analyst:	Alex Schatz (303-866-4375)

BILL TOPIC: STATE FISCAL RESPONSIBILITY FOR PROVIDING COURTS

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	**$75,470**	**$5,094,355**
General Fund	64,443	5,079,547
Centrally Appropriated Costs**	11,027	14,808
FTE Position Change	0.8 FTE	1.0 FTE
Appropriation Required: $64,443 - Department of Local Affairs (FY 2015-16)		

** This summary shows changes from current law under the bill for each fiscal year.*
*** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.*

Summary of Legislation

This bill creates a multiyear process to transfer fiscal responsibility for state court facilities from counties to the state. Two groupings of counties are created, with all counties receiving a rent subsidy from the state until fiscal responsibility is completely transferred. See Appendix A for a list and map of Group 1 and Group 2 counties.

Group 1 counties receive a 20 percent subsidy of fair market rent in FY 2016-17, which subsidy steps up in 20 percent increments over five fiscal years. Group 2 counties receive a 10 percent subsidy beginning in FY 2017-18, which steps up by 10 percent increments over the course of 10 years. At the end of each sequence of stepped rent increases, courthouse facilities are fully funded by the state. Once fully state funded, the Judicial Department may negotiate to purchase individual court facilities.

The annual rent payment is based on a calculation provided by each county. An annual process starts in FY 2015-16, when counties must report by June 1, 2016, the fair market value rent for courthouse facilities either owned or funded by the county under current law. The State Controller and Property Tax Administrator (PTA) receive this report, and the PTA certifies each county's fair market value rent calculation. The State Controller pays each county treasurer the amount certified by the PTA.

Background

Courtroom facilities in Colorado. There are 71 courthouses in 64 counties in Colorado, and 15 additional probation offices. Many courthouse facilities are in older buildings, lacking as-built plans or any other record of the total square footage (SF) used by the Judicial Department.

Budget responsibility for courthouse facilities. According to current state law, counties provide and maintain adequate courtroom facilities, while the state Judicial Department provides furnishings and staffing to allow judicial facilities to function. Probation is considered a part of courtroom facilities, and the Division of Probation Services in the Judicial Department does not receive state appropriations for office space.

Underfunded Courthouse Facilities Grant Program. The state is currently assisting county governments with costs to repair, renovate, or expand courthouses in the state's judicial districts. House Bill 14-1096 created the Underfunded Courthouse Facilities Grant Program and appropriated $700,000 to a new cash fund to pay for the program. The Judicial Department submitted a FY 2015-16 capital development request to continue the program with over $2 million of facilities improvements in at least 12 judicial districts.

State Expenditures

Under the bill, state expenditures increase by **$75,470 and 0.8 FTE in FY 2015-16** and **$5,094,355 and 1.0 FTE in FY 2016-17**, with continuing costs for state . Starting in FY 2015-16, the Department of Local Affairs (DOLA) must hire staff for the certification process. The bill also increases workload for the Office of the State Controller in the Department of Personnel and Administration (DPA) and the Office of the State Court Administrator in the Judicial Department, but does not require increased appropriations to those state agencies in FY 2015-16 or FY 2016-17.

Table 1 summarizes state expenditure impacts under the bill. All expenditures are paid from the General Fund. Personal services costs in FY 2015-16 are prorated to reflect the General Fund paydate shift and the effective date of the bill.

Table 1. Expenditures Under SB15-089

Cost Components	FY 2015-16	FY 2016-17
State Controller (DPA)	**$0**	**$5,000,000**
Rent payments to counties	0	5,000,000
Property Taxation (DOLA)	**$75,470**	**$94,355**
Personal Services	58,948	78,597
FTE	0.8	1.0
Operating Expenses	792	950
Capital Outlay Costs	4,703	0
Centrally Appropriated Costs*	11,027	14,808
TOTAL	**$75,470**	**$5,094,355**

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

Table 2. Estimated state rent subsidy, FY 2016-17 to fully state funded years.

	Assumed Gross SF	x	Assumed Rental Rate per SF**	=	Fair Market Value Rent	x	State Share	=	Annual State Rent Subsidy
FY 17*									**$5,000,000**
Group 1	1,250,000	x	$20.00	=	$25,000,000		20%		$5,000,000
FY 18									**$13,000,000**
Group 1	1,250,000	x	20.80	=	26,000,000		40%		10,400,000
Group 2	1,250,000	x	20.80	=	26,000,000		10%		2,600,000
FY 19									**$21,624,000**
Group 1	1,250,000	x	21.63	=	27,037,500		60%		16,216,500
Group 2	1,250,000	x	21.63	=	27,037,500		20%		5,407,500
FY 20									**$30,937,500**
Group 1	1,250,000	x	22.50	=	28,125,000		80%		22,500,000
Group 2	1,250,000	x	22.50	=	28,125,000		30%		8,437,500
FY 21									**$40,950,000**
Group 1	1,250,000	x	23.40	=	29,250,000		100%		29,250,000
Group 2	1,250,000	x	23.40	=	29,250,000		40%		11,700,000
FY 22									**$45,637,500**
Group 1	1,250,000	x	24.34	=	30,425,000		100%		30,425,000
Group 2	1,250,000	x	24.34	=	30,425,000		50%		15,212,500
FY 23									**$50,620,000**
Group 1	1,250,000	x	25.31	=	31,637,500		100%		31,637,500
Group 2	1,250,000	x	25.31	=	31,637,500		60%		18,982,500
FY 24									**$55,930,000**
Group 1	1,250,000	x	26.32	=	32,900,000		100%		32,900,000
Group 2	1,250,000	x	26.32	=	32,900,000		70%		23,030,000
FY 25									**$61,582,500**
Group 1	1,250,000	x	27.37	=	34,212,500		100%		34,212,500
Group 2	1,250,000	x	27.37	=	34,212,500		80%		27,370,000
FY 26									**$67,592,500**
Group 1	1,250,000	x	28.46	=	35,575,000		100%		35,575,000
Group 2	1,250,000	x	28.46	=	35,575,000		90%		32,017,500
FY 27* **									**$74,000,000**
Group 1	1,250,000	x	29.60	=	37,000,000		100%		37,000,000
Group 2	1,250,000	x	29.60	=	37,000,000		100%		37,000,000

* Table 2 uses "FY 17" as shorthand for FY 2016-17. This notation is used for all fiscal years.
** Rental rate is subject to 4 percent annual growth adjustment to maintain fair market value.
*** FY 2026-27 is the first fully state funded year for all courthouse facilities. This rent amount, subject to annual rent growth, reflects the base rent amount in FY 2026-27 and future fiscal years.

Assumptions. The analysis of this bill relies on several critical assumptions. As discussed below, the assumptions used to calculate rent subsidies in this analysis will be revised as the bill is implemented and fair market value rents are established.

- The extent of courthouse facilities covered by the bill includes all county building space occupied by the state Judicial Department. This includes the courts of each judicial district, including clerks and administration, as well as the probation offices associated with each judicial district.
- A typical rural courthouse contains two courtrooms and chambers, and offices for personnel employed by the Judicial Department, at a gross square footage per small courthouse of 10,000 SF. Urban courthouses are larger, up to the size of the Pueblo County Courthouse at 168,000 SF. Probation offices are usually located in the same locations as the courts, but some probation officers continue to be located in satellite county offices.
- The total square footage of courthouse facilities in all judicial districts is 2.5 million SF, an average of under 30,000 SF for each of the 86 courthouse facilities in Colorado.
- On an statewide basis, the average fair market value rental rate is at least $20 per square foot annually.
- There are more counties in Group 1, but more urban counties with larger courthouses in Group 2. It is assumed that the total amount of gross square footage in each group is roughly equivalent.
- The bill transfers responsibility for rent costs exclusive of personnel for security and other courthouse operating expenditures so long as the building remains county property. The responsibility for maintenance will reside with the government holding title to the property; therefore these costs will remain an exclusively local government expenditure through at least FY 2019-20.
- The amounts estimated in this fiscal note are not based on the detailed information to be examined in the new budget process described by SB 15-089; **the amount of funding owed to counties from the state General Fund will be refined**.

Department of Personnel and Administration. The State Controller's office will release payments from the General Fund to 35 county governments starting in FY 2016-17, then to all 64 counties in FY 2017-18 and future fiscal years. These funds are lump sum payments for the annual fair market value rent of each county courthouse facility providing space for judicial district and probation offices. In addition to round values for gross square footage, the fiscal note assumes 4 percent annual rent growth as a factor in the fiscal impact. Table 2 summarizes the <u>estimated</u> annual rent subsidy for future fiscal years.

Amounts in Table 2 will be adjusted in FY 2020-21 and future fiscal years to the extent that the Judicial Department purchases courthouse facilities and potentially eliminates rent costs or substitutes other financing (such as certificates of participation) in place of the obligation to pay fair market value rent.

The bill creates a minimal workload for the State Controller to make scheduled disbursements. The workload of the DPA is also increased to facilitate interagency agreements and state procurement, as needed. No new appropriations are required for the DPA to implement the bill.

Department of Local Affairs — Property Tax Administrator. The State Controller will not release state funds to a county without a certified fair market value rent calculation from the PTA. However, fair market value rent is not an established measure in current real estate or appraisal practice. To adequately regulate the amount of state rent subsidy disbursed to counties, the PTA will be required to develop expertise and enforce reasonable guidelines in the calculation of rents. The PTA will be required to audit reported amounts and independently calculate the allowable rent when called upon to do so. This workload requires the PTA to hire 1.0 FTE, an experienced professional to coordinate the courthouse certification program and manage reallocation of workload in the Division of Property Taxation based on the annual cycle of county reports.

To fund the position in the Division of Property Taxation in DOLA, the bill increases state expenditures by $75,470 and 0.8 FTE in FY 2015-16 and by $94,355 and 1.0 FTE in FY 2016-17.

Judicial Department. This bill affects Court Facilities and Planning in the Office of the State Court Administrator. The Judicial Department must analyze its long-term budget and capital structure, to determine the feasibility of acquiring county courthouse facilities in title when Group 1 is fully state funded as of FY 2020-21 or when Group 2 is fully state funded as of FY 2026-27. The Judicial Department will coordinate its budget for Underfunded Courthouse Facilities with any purchase plan.

To implement the bill, building assessments for each courthouse facility are warranted. These assessments are performed in FY 2015-16 and future fiscal years by Court Facilities and Planning personnel. Current personnel will conduct rapid assessments within existing appropriations. Depending on the condition of buildings, the urgency of funding, and other planning factors, the Judicial Department may desire to obtain more detailed information or accelerate the assessment process by contracting for professional building assessment services. This cost is estimated at approximately $2,000 per courthouse facility.

The Judicial Department will have a continuing authorization to purchase courthouse properties as of FY 2020-21. Thus, in future fiscal years, the Judicial Department may incorporate courthouse purchases in the capital development and annual budget process, facilitated by lease-to-purchase credit or other transfer agreements with counties.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3. These costs are associated with new personal services to assist the PTA in the Department of Local Affairs.

Table 3. Centrally Appropriated Costs Under SB 15-089*

Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$6,458	$8,082
Supplemental Employee Retirement Payments	4,569	6,726
TOTAL	**$11,027**	**$14,808**

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

Local Government Impact

The bill results in a substantial increase in county revenue from rent charged to the state for courthouse facilities, while increasing workload for those associated with the county budget and the handling of county funds.

County budgets. Counties will receive new revenue from the state under the bill, starting with Group 1 counties in FY 2016-17. The statewide total amount paid to counties in each fiscal year is estimated in Table 2 above. The amount paid by the state to each individual county depends on the size and number of courthouse facilities, the condition of the facilities, and local market prices for similar office space. Exact amounts will be determined in the bill's annual reporting and certification process.

The workload of county officials involved in budgeting will increase to track Judicial Department usage of county building space, evaluate market conditions, estimate fair market value rent, and provide annual reports to the State Controller and PTA.

County treasurers. The county treasurer receives the annual rent payment from the State Controller. This involves minimal workload to account for the revenue and ensure that it is properly credited.

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2015-16, the bill requires an appropriation of $64,443 from the General Fund to the Department of Local Affairs, and an allocation of 0.8 FTE.

State and Local Government Contacts

Personnel and Administration	Local Affairs	Property Taxation
Judicial Department	Counties	Municipalities
District Attorneys	Corrections	Public Safety

Appendix A
Phase-in of SB 15-089, by County

Group 1 (begin FY 2016-17, 5-year phase-in)

Alamosa
Archuleta
Baca
Bent
Chafee
Conejos
Costilla
Crowley
Custer
Delta
Dolores
Fremont
Gunnison
Huerfano
Jackson
Kiowa
Kit Carson
Lake
Las Animas
Lincoln
Logan
Mesa
Montezuma
Montrose
Morgan
Otero
Phillips
Prowers
Pueblo
Rio Grande
Saguache
San Juan
Sedgwick
Washington
Yuma

Group 2 (begin FY 2017-18, 10-year phase-in)

Adams
Arapahoe
Boulder
Broomfield
Cheyenne
Clear Creek
Denver
Douglas
Eagle
Elbert
El Paso
Garfield
Gilpin
Grand
Hinsdale
Jefferson
La Plata
Larimer
Mineral
Moffat
Ouray
Park
Pitkin
Rio Blanco
Routt
San Miguel
Summit
Teller
Weld