

**STATE, LOCAL, and STATUTORY PUBLIC ENTITY
FISCAL IMPACT**

Drafting Number: LLS 15-0657 **Date:** April 14, 2015
Prime Sponsor(s): Rep. Hullinghorst; Lawrence **Bill Status:** House Finance
 Sen. Heath; Balmer **Fiscal Analyst:** Alex Schatz (303-866-4375)

BILL TOPIC: URBAN REDEVELOPMENT FAIRNESS ACT

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	Minimal workload increase.	Potential school finance reduction.
General Fund	See State Expenditures section.	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 creates new requirements for urban renewal authorities in Colorado. As described in detail below, changes affect:

- the governance of urban renewal authorities;
- procedures municipalities must follow prior to the adoption or modification of urban renewal plans, including required negotiations relating to urban renewal plans with tax increment financing (TIF) provisions;
- the allocation of funds when municipalities and affected local taxing entities fail to reach agreement on the share of TIF revenue to be allocated to each, specifically limiting an urban renewal authority's TIF allocations from property tax in this situation to the same percentage allocated from municipal sales tax; and
- the distribution of excess funds at the conclusion of an urban renewal project.

Urban renewal authority governance. Under current law, the governing body of a municipality determines the number of commissioners on the governing body of an urban renewal authority (urban renewal board) to be appointed by the mayor, or the governing body of a municipality may alternately designate itself as the urban renewal board.

For urban renewal authorities that use tax increment financing (TIF), the bill requires:

- at least one member of the urban renewal board to be appointed by the county commissioners of the county in which the municipality resides, with the exception of urban renewal authorities created by consolidated city and county governments in Denver and Broomfield;

- the appointment of representatives from other local taxing entities to the urban renewal board, including, if affected by a proposed urban renewal plan, one representative from affected school districts and one representative from affected special districts, with the representative to be determined in negotiations between districts of each type to the extent that multiple school districts or special districts are affected; and
- the appointment of all additional members of the urban renewal board not less than 120 days before an urban renewal plan with a TIF is adopted or modified.

Municipal requirements to adopt or modify urban renewal plans. Under current law, municipalities that undertake the formation of an urban renewal authority within their jurisdiction must engage in certain notices and studies prior to the creation of the urban renewal authority and the adoption or modification of urban renewal plans.

The bill modifies certain obligations of the municipality and provides additional guidelines for the relationship between the municipalities and other affected local jurisdictions. Specifically, the bill:

- allows obligations of the urban renewal authority toward another local taxing entity to be waived by mutual agreement;
- requires all local taxing entities that may be affected by an urban renewal plan to be notified of pending actions on the urban renewal plan, extending the time period for review from 30 days to 90 days prior to the action; and
- requires the municipality to develop the content of the urban renewal impact report in consultation with each affected local taxing entity.

Guidelines for 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 municipalities to undertake a negotiation process with affected local taxing entities prior to approving an urban renewal plan with tax increment financing (TIF plan). If authorized by the municipal governing body, these negotiations may be delegated to the urban renewal board. Implementation of TIF plans are subject to statute that:

- authorizes a municipality to specifically designate which local taxing entities are and are not subject to allocation of TIF proceeds;
- requires municipalities to notify affected taxing authorities prior to adopting a TIF plan and, within a 120-day period after providing notification, to attempt negotiation with these other affected taxing entities regarding the share of TIF proceeds allocated to each;
- allows counties to dedicate a portion of county sales tax generated within the urban renewal area to the urban renewal project as part of a revenue sharing agreement;
- limits TIF plans such that, unless a specific allocation has been negotiated with the other affected local taxing entity or entities, the percentage of property tax increment allocated through an urban renewal plan may not exceed the percentage of municipal sales tax revenue allocated; and

- provides that 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.

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.

Applicability and other provisions. The bill applies to new urban renewal authorities and plans as of January 1, 2016, and urban renewal districts and plans modified after that date. Modifications of urban renewal plans subject to the bill include adjustment of the boundaries of an urban renewal area, structural changes to TIF provisions, or extension of the duration of an urban renewal plan. The bill also includes conforming amendments, such as prescribing the procedure to fill certain vacant seats of nonmunicipal taxing entities on the board of an urban renewal authority.

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, is a tool used by municipalities to address blighted conditions with planning and public improvements, encouraging the development of 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 are 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

In the FY 2015-16, the bill requires a minimal workload increase in the Department of Local Affairs (DOLA). Under certain circumstances the bill may reduce state obligations related to school finance in FY 2016-17 and future fiscal years.

Department of Revenue. The Department of Revenue collects sales tax for certain local governments, including counties, statutory cities and towns, and home rule municipalities that elect to have the state perform this function. The Department of Revenue remits all sales taxes to the jurisdiction that levies the tax and has no workload associated with the redistribution of incremental allocations related to urban renewal projects.

Department of Local Affairs. Starting in FY 2015-16, 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 2015-16 to update training materials and manuals to reflect changes in the bill. No new appropriations are required for DOLA to implement the bill.

School finance. Starting in FY 2016-17, and to the extent that the bill results in additional property tax allocations to school districts (see discussion in the Local Government, School District, and Statutory Public Entity Impact section below), the state's obligation to backfill school finance may be reduced.

Local Government, School District, and Statutory Public Entity Impact

Starting in FY 2015-16, 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.

Assumptions. Based on the applicability provisions of the bill, property tax allocations between local government entities may be modified starting in the 2015 property tax year. Property taxes are collected in the first half of the calendar year following the tax year; therefore, 2015 property tax allocations affect FY 2015-16, or 2016 for local governments that budget on a calendar year basis.

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 has not successfully negotiated with all affected taxing entities and 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.

Whether by negotiation or by operation of the bill, some urban renewal TIF will be reallocated as the bill is implemented. **The overall effect of the bill is to reduce municipal and urban renewal revenue from TIF allocations and to increase TIF allocations to other local taxing entities.** 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. Costs will increase prior to the adoption or modification of urban renewal plans. The municipality must prepare additional analysis in impact reports, and, for plans with a TIF component, negotiate potential revenue sharing agreements with all affected local taxing entities that wish to hold negotiations. If a municipality fails to reach agreement on revenue sharing terms with local taxing entities attempting to negotiate, the bill requires dedication of certain municipal sales tax revenue to urban renewal. Depending on the urban renewal plan's initial financing terms, this may divert municipal sales tax revenue from the municipal General Fund and increase costs to amend urban renewal plans accordingly.

To the extent that an urban renewal authority must amend its plans, adjust mill levies, or refinance existing obligations to comply with the bill, 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. Costs to administer urban renewal authorities will also increase to coordinate meetings with additional members.

Counties, school districts, and other local taxing entities. Costs for counties, school districts, special districts, or other local taxing entities will increase to scope out and review impact reports, negotiate membership on urban renewal authority boards, and send delegates to meetings. Local taxing entities that participate in negotiations related to revenue sharing are likely to require professional counsel regarding accounting, tax, or legal requirements in potential agreements. For local entities with territory overlapping multiple municipalities with urban renewal authorities, coordination and attendance at meetings and negotiations may require substantial effort.

To the extent that the bill results in reallocation of property tax revenue to these local taxing entities, such additional revenue may affect compliance with other applicable law (e.g., the Taxpayer's Bill of Rights in the state constitution), creating workload and potential costs for accounting and adjustment of mill levies.

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:

- Proposed Section 31-25-207 (9.5)(d)(I), C.R.S., imposes the formulaic limitation on property tax TIF allocations if the municipality fails to reach agreement with "any" taxing entity with revenue subject to TIF allocation. The incentive for municipalities and other

local taxing entities to reach agreements on revenue sharing and other terms may be significantly diminished if such agreements have no advantage for the municipality in the event of a hold out in negotiations.

- There is no defined method to credit or debit sales tax rebates and other miscellaneous municipal contributions to urban renewal (proposed paragraphs (9.5)(d)(II) and (9.5)(d)(III) 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. 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.

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. As noted in the Summary of Legislation, the bill applies to new urban renewal authorities and plans as of January 1, 2016, and urban renewal districts and plans modified after that date.

State and Local Government Contacts

Local Affairs	Special Districts	Counties
Municipalities	Property Taxation	Assessors
Clerk and Records	Office of Economic Development	Revenue
Judicial Department		