Amendment 61

Colorado Legislative Council Staff

FISCAL IMPACT STATEMENT

Date: September 9, 2010 **Fiscal Analyst:** Fiona Sigalla, 303-866-3556

BALLOT TITLE: LIMITS ON STATE AND LOCAL GOVERNMENT BORROWING

Fiscal Impact Summary*	First Year	Fully Implemented
State Revenue		
Various Funds		
(Tax Rate Reduction)	$0	($200 million)
(Revenue from Borrowing)	*Indeterminate reduction*	*Indeterminate reduction*
State Expenditures		
Various Funds	*Indeterminate reduction*	*Indeterminate reduction*
Local Government Impact: *Reduction in Revenue and Expenditures.* See Local Government Section.		

* *It is expected that the measure will take up to 40 years to be fully implemented. The impact is indeterminate because future borrowing decisions cannot be predicted.*

Summary of Measure

Amendment 61 places new restrictions on government borrowing. Beginning in 2011, all future state government borrowing, including for enterprises, would be prohibited.[1]

Local governments would have more restrictive borrowing limits than under current law:

- borrowing could not exceed 10 percent of assessed taxable value of real property;
- borrowing would require voter approval at a November election, even for local jurisdictions that currently do not have a defined voter base;
- all new borrowing would need to be repaid within 10 years; and
- borrowing would need to be issued with the ability to be fully repaid at any time.

Governments, except for enterprises, would be required to reduce tax rates after borrowed money is fully repaid, even if the borrowing was repaid from a source other than taxes.

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[1] Enterprises are created by the General Assembly and operate as separate public entities from government. They are generally self-supporting entities that receive revenue (usually from fees) in return for the provision of goods or services. By definition, they cannot receive more than 10 percent of their funding from the state or local government sources combined. Enterprises may borrow for projects and programs without voter approval.

Background

Borrowing under current law. The Colorado Constitution limits the state's authority to borrow money and enter into long-term debt.[2] The state is prohibited from borrowing money using general obligation bonds, which offer a general promise to repay debt rather than designating a specific revenue source or asset to secure debt repayment. The state and authorized public entities in the state may issue revenue bonds with prior voter approval.[3] Revenue bonds are bonds on which the debt service is payable solely from revenue generated from the operation of the project being financed or from a revenue source created to finance the project. Higher education institutions and state agencies that have been granted enterprise status may also issue revenue bonds.[4]

State law authorizes some public entities and most local governments to issue bonds. Bonds are a written promise to repay debt. Typically, a bond is a promise to repay the principal borrowed plus interest by a specific maturity date. State law designates the authority of the public entity or local government, permits bond financing for public projects, requires voter approval for some types of borrowing, and in some cases, defines some of the terms for bond issuance. Current borrowing limits are 20 percent or more of assessed taxable value of real and personal property for school districts and 3 percent of actual value for counties.[5]

State and local government borrowing. Currently, the state and local governments borrow money to build or improve public facilities like roads, buildings, and airports and repay the money over multiple years. Borrowing is also used for other purposes, such as financing loans for home buyers and small businesses. In some cases, political subdivisions borrow money on behalf of private entities and the obligation to repay rests solely with the private entity. This type of public borrowing for private purposes "often is not viewed by the issuing government as its own despite the use of governmental powers to grant the debt its critical tax-exempt status."[6] Table 1 summarizes average state and local government borrowing.

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[2] Article XI, Section 3, Colorado Constitution

[3] Article X, Section 20 (4) (b), Colorado Constitution

[4] Article X, Section 20 (2) (d), Colorado Constitution

[5] Section 22-42-104, C.R.S. and Section 30-35-201, C.R.S.

[6] U.S. Census Bureau, Government Finance and Employment Classification Manual. For more information, see http://www.census.gov/govs/www/class_ch3.html

Table 1. Colorado State and Local Government Borrowing

2005-2008 Annual Average Total Borrowing, including Enterprise Borrowing		
	State Government	**Local Governments**
New long-term borrowing issued	$2.9 billion	$4.9 billion
Interest on borrowed money	$0.7 billion	$1.3 billion
Payments to retire borrowing (interest and principle)	$2.0 billion	$4.3 billion
Long-term borrowing outstanding	$13.7 billion	$29.7 billion

Source: U.S. Census Bureau Annual Surveys of State and Local Government Finances and Legislative Council Staff Calculations.

Based on Legislative Council Staff estimates, at the end of 2010, the state and all of its enterprises will owe about $17 billion for assets financed through borrowing. Local governments and their enterprises owe about $36 billion for assets financed through borrowing.

State Revenue

Amendment 61 will reduce state revenue by prohibiting borrowing and by reducing taxes as current borrowing is repaid. However, the actual impact on revenue cannot be determined because future borrowing cannot be predicted.

Prohibiting borrowing. Between 2005 and 2008, the state and its enterprises borrowed roughly $2.9 billion annually. Without access to borrowing in the future, projects and services that would have been financed through borrowing will instead have to be eliminated, paid for by increasing fees, or paid for using money currently budgeted for other purposes.

Tax rate reduction. Amendment 61 requires that the state, excluding its enterprises, lower tax rates after borrowed money is fully repaid. Assuming this provision applies to current borrowing, the state would be required to reduce tax rates by an estimated $200 million by 2046.[7] The first major tax rate reduction would occur in FY 2016-17, when the Colorado Department of Transportation (CDOT) revenue anticipation notes (TRANs) are scheduled to be fully repaid; this will require the state to lower tax rates by $120.1 million as shown in Table 2. The final tax rate reduction would occur in FY 2045-46, after all current borrowing is repaid.

[7] Legislative Council Staff estimate for major borrowing based on current outstanding borrowing. This figure does not include the average annual repayment of borrowing for equipment such as telephones and copy machines that are purchased through a lease-to-own arrangement.

Table 2. Timing of Major Tax Rate Reductions under Amendment 61

Year of Reduction	Estimate of Tax Rate Reduction	Borrowing Retired
FY 2016-17	$120.1 million	CDOT TRANs Bonds
FY 2019-20	$12.3 million	Department of Personnel and Administration Fleet
FY 2020-21	$13.9 million	Colorado State Penitentiary II Certificates of Participation (COPs)
FY 2027-28	$16.5 million	Higher Education Projects (12) COPs
FY 2030-31	$13.1 million	Projects at the Anschutz Medical Campus (7) COPs*
FY 2033-34	$1.5 million	Various CDOT COPs
FY 2045-46	$18.7 million	History Colorado Center and Ralph L. Carr Justice Complex COPs
Total	***$196.1 million***	

* *The COPs for this project were issued by the University of Colorado at Denver, which is currently classified as a state-level enterprise. Therefore, the average annual repayment amount may not be subject to the tax rate reduction provision of Amendment 61.*

State Expenditures

Amendment 61 will reduce state expenditures, but the actual reduction cannot be determined because future borrowing cannot be predicted. The state would no longer be able to borrow money and therefore could not spend borrowed money after 2010. Initially, the state will continue to repay existing borrowing, but over the next 40 years these expenditures will decline to zero as current borrowing is repaid. Between 2005 and 2008, the state and its enterprises paid about $2.0 billion per year to repay borrowed money. Of this amount, an estimated $200 million is for non-enterprise borrowing.

The following are examples of existing state projects that were funded through borrowing. Similar projects would require a different funding source under Amendment 61 (such as increased taxes or fees) or these projects would have to be reduced or eliminated:

- improvements to state highways and roads;
- public university and college classroom buildings, dormitories, and student centers;
- improvements to water and wastewater treatment plants;
- prisons;
- loans to home buyers and small businesses; and
- short-term borrowing for cash-flow purposes.

Unemployment Insurance Fund. Amendment 61 could prevent the state from paying unemployment benefits, which would cause the state to be in violation of federal law. Unusually high unemployment has forced the Colorado Unemployment Insurance Fund to borrow money interest-free from the federal government to pay unemployment insurance benefits. Amendment 61

would prohibit this borrowing. If the state is unable to find an alternative funding source for the Unemployment Insurance program, the federal government could choose to increase federal unemployment insurance taxes on businesses in the state by as much as $1 billion annually and disqualify the state from receiving as much as $45 million in federal grants. The increased taxes paid by Colorado businesses would be used to fund programs in other states. The Colorado unemployment compensation program currently employs over 700 full-time employees that could be eliminated if the program is suspended.

Local Government Impact

Amendment 61 would reduce local government revenue and expenditures by restricting borrowing and requiring tax rate reductions when borrowing is repaid. As a result, the measure would require local governments to either increase fees, reallocate spending, reduce construction, or reduce programs or services.

Borrowing restrictions. Amendment 61 limits borrowing to 10 percent of the assessed real property value within a local government's borders. Several local governments will already be at their borrowing limit and will be unable to borrow until property values increase or current borrowing is repaid. For example, based on FY 2008-09 data, the City and County of Denver and at least 46 school districts, representing over 75 percent of students attending public schools, would initially be unable to borrow with the new borrowing limits.

The measure would also affect cash flow management for governments that borrow short-term to finance current operations in anticipation of taxes collected later in the year. Several school districts currently rely on short-term borrowing to fund operations throughout the school year. These districts will have to find an alternative source of revenue to fund operations or will need to take measures to reduce expenditures until revenue is collected later in the year.

Voter approval at a November election. Some jurisdictions do not have an established voter base and would need to define a jurisdiction prior to issuing new borrowing. Additionally, some local governments hold elections at various times during the year. Under Amendment 61, local governments could only obtain voter-approval for borrowing at a November election.

Cost of borrowing. The annual "cost" of future local government borrowing will be affected by the new 10-year maximum term on borrowing. While borrowing under a shorter term typically reduces interest costs, a 10-year term limit will require a higher annual payment than it would if borrowing were spread over a longer term as is allowed under current law. For example, $1 million borrowed at a 5 percent interest rate for 10 years would require an annual payment that is double the annual payment for a 30-year term on borrowing. However, the amount of interest paid over 30 years is about $650,000 higher than with a 10-year term on borrowing.

Restrictions on borrowing may constrain refinancing opportunities if local governments are unable to obtain voter approval in advance. Additionally, lenders may require additional fees or higher interest rates to offset a possible loss resulting from the early repayment provision of Amendment 61.

Tax rate reduction. Amendment 61 would require a tax rate reduction equal to the annual average payment on borrowing after a borrowing is fully repaid. This provision does not apply to enterprise borrowing. After adjusting for tax rate reductions already required under current law, Amendment 61 would reduce local government taxes by $940 million over the next 20 to 30 years as current borrowing is repaid. These estimates assume the provisions of Amendment 61 apply to current borrowing.

Taxpayer Impact

Based on the average annual repayment amount and assuming the tax reduction provision applies to current borrowing, Amendment 61 is expected to reduce state and local taxes by about $1.1 billion per year when fully implemented over the next 40 years. This estimate includes about $0.9 billion in local taxes and about $200 million in state taxes. The actual reduction for individuals, businesses, and others will depend on which taxes are reduced by the state and local governments and where the taxpayer lives. To illustrate the reduction, if the state reduced income taxes and local governments reduced property taxes, Amendment 61 is estimated to reduce the total taxes paid by an average household earning $55,000 per year and living in a $295,000 home by over $274 per year in today's dollars.

Table 3 summarizes the impact of the tax reductions required by Amendment 61 once all current borrowing is repaid.

Table 3. Annual Estimated Tax Impacts Based on Current Borrowing
(Fully Implemented over 40 Years)

	Total Outstanding Borrowing (Excluding Enterprises)	**Total Tax Reduction**	**Taxpayer Impact*** (Tax Reduction)
State Government	$2.2 billion	$0.2 billion	$49
Local Governments	$24.8 billion	$0.9 billion	$225
Total	$27.0 billion	$1.1 billion	$274

**Based on a household earning $55,000 per year living in a $295,000 home.*