



**Colorado
Legislative
Council
Staff**

HB16-1006

**REVISED
FISCAL NOTE**

(replaces fiscal note dated January 26, 2016)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0753

Date: February 24, 2016

Prime Sponsor(s): Rep. Becker K.; Garnett

Bill Status: House Appropriations

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BILL TOPIC: CLARIFY TAX EXEMPTIONS FOR HOUSING AUTHORITIES

Fiscal Impact Summary	FY 2015-2016 <i>(current year)</i>	FY 2016-2017	FY 2017-2018
State Revenue			
General Fund	(\$1.4 million)		decrease
State Expenditures			minimal increase
TABOR Impact			decrease
Appropriation Required: None.			
Future Year Impacts: Ongoing state revenue decrease.			

Summary of Legislation

This bill, ***as amended by the House Finance Committee***, clarifies current law sales, use, and property tax exemptions for subsidiaries of housing authorities. Under current law, housing authorities are exempt from any taxes or fees payable to the state, any subdivision thereof, and all levels of local government. The bill clarifies that sales, use, and property tax exemptions apply to low-income housing property owned by or leased to any subsidiary of a housing authority, including:

- an entity that is wholly owned by a housing authority;
- an entity in which a housing authority has an ownership interest; and
- an entity in which a subsidiary has an ownership interest.

The sales and use tax exemption for housing authority subsidiaries applies only while a project is under construction. The bill establishes a mechanism for prorating application of the exemption to multi-use buildings, exempting the subsidiary from a portion of sales, use, or property tax consistent with the portion of the project, determined by cost or square footage, that will be used to house persons with low incomes.

Background

A housing authority is a public corporation affiliated with the state or a local government. Housing authorities in Colorado provide and facilitate affordable housing under the direction of the U.S. Department of Housing and Urban Development, the Division of Housing in the Colorado

Department of Local Affairs (DOLA), and applicable local governments. There are three statewide housing authorities: the Department of Human Services, the Division of Housing in DOLA, and the Colorado Housing Finance Authority. Additionally, the DOLA identifies 27 county, 81 municipal, and 6 multi-jurisdictional housing authorities.

The exemption from government charges dates to the 1930s. House Bill 00-1284 expanded parts of the exemption to include an authority's subsidiaries.

State Revenue

The bill will reduce General Fund revenue by \$1.4 million in the current FY 2015-16 and by an indeterminate amount in FY 2016-17 and subsequent years. Cash fund revenue will be reduced by an indeterminate amount beginning in FY 2016-17.

Disputed sales taxes. The bill is assumed to resolve in the favor of taxpayers four disputed sales tax bills pending before the Department of Revenue (DOR) Office of the Tax Conferree. As a result, these taxes will not be collected. Abandonment of these disputes is expected to reduce General Fund revenue by \$1.4 million in FY 2015-16 only.

Following the passage of HB00-1284, the DOR extended a sales tax exemption to subsidiaries of housing authorities. In 2013, the DOR changed its interpretation of this law and has since disallowed these exemptions. Based on two of the four cases pending before the Office of the Tax Conferree, the average amount of state revenue subject to dispute for each project is \$348,000. Disputes primarily concern sales taxes due on construction materials for projects built by subsidiaries of housing authorities. To the extent that these two projects are not representative of the others, the revenue decrease will be greater or less than estimated.

Future sales taxes. The state is assumed to forego the assessment of sales and use tax on future purchases by housing authority subsidiaries, similar to those assessments that have been disputed under current law. The amounts of these taxes, and when they will be assessed, are not estimated.

TABOR Impact

To the extent that the bill reduces state revenue subject to TABOR beginning in FY 2016-17, the amount of money required to be refunded under TABOR will also decrease. TABOR refunds are paid out of the General Fund. Since the bill reduces both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will reduce money available for the General Fund budget in the future during years the state does not collect money above the TABOR limit.

The state is not expected to collect a TABOR surplus during FY 2015-16.

State Expenditures

Beginning FY 2016-17, the DOR Office of the Tax Conferree is expected to experience additional workload for tax exemption review as a result of the bill. This increase can be absorbed within existing appropriations.

Local Government Impact

The bill will reduce revenue to counties, municipalities, school districts, and special districts by at least \$422,000 in FY 2015-16, and by an indeterminate amount beginning in FY 2016-17.

Statutory government sales taxes. The DOR collects and distributes sales taxes for statutory counties, cities, and special districts. The four projects currently under dispute in the Office of the Tax Conferee concern at least \$158,000 in disputed sales taxes due to a statutory county and at least \$264,000 in disputed sales taxes due to special districts, including the Regional Transportation District and the Scientific and Cultural Facilities District. The bill is expected to reduce revenue to these governments by at least this amount in FY 2015-16.

Home rule government sales taxes. Each home rule city and county collects sales taxes directly from taxpayers and determines its own policies based on its interpretation of state law. All four projects currently under dispute are within the boundaries of home rule cities, and one is within the boundary of a home rule county. Whether the bill will affect revenue to these cities and counties depends on these governments' interpretation of state law and whether or not the relevant tax bills are under dispute.

Property taxes. The bill is not expected to reduce property tax revenue to local jurisdictions because the bill codifies current practice. Housing authority subsidiaries are permitted under current law to claim a tax exemption for projects housing persons with low income under current law.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties	Information Technology	Local Affairs
Municipalities	Property Tax	Revenue