Colorado Legislative Council Staff

SB16-194

FINAL FISCAL NOTE

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

Drafting Number:	LLS 16-1233	**Date:**	June 3, 2016
Prime Sponsor(s):	Sen. Scott Rep. Moreno; DelGrosso	**Bill Status:**	Postponed Indefinitely
		Fiscal Analyst:	Larson Silbaugh (303-866-4720)

BILL TOPIC: REGIONAL TRANSPORTATION DEVELOPMENT PROJECTS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	**$85,000**	**at least ($56,098)**
General Fund		at least (56,098)
Cash Fund	85,000	
State Expenditures	**$85,000**	
Cash Fund	85,000	
TABOR Impact		at least ($56,098)
Appropriation Required: $85,000 - Department of Revenue (FY 2016-17).		
Future Year Impacts: Ongoing revenue and expenditure impacts.		

Note: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

The bill creates a new method for local governments to fund transportation projects by creating a state sales tax increment.

A city, county, or combination of neighboring cities and counties may apply to the Colorado Department of Transportation (CDOT) to build a regional transportation project. The director of CDOT must forward the application to the Transportation Commission with a recommendation to approve, approve with changes, or deny the application. In addition to the project, the Transportation Commission approves a map of the Regional Transportation Development Corridor. The corridor includes commercial property that is undeveloped or underdeveloped because of a lack of state or regional transportation infrastructure. If the project is approved, the local government receives any state sales tax revenue collected from additional sales that occur in the corridor.

The local government must provide CDOT with the following information:

- a description of the proposed project and a map of the proposed Regional Transportation Development Corridor;

- the anticipated costs and benefits of the project;
- evidence that the Regional Transportation Development Corridor is undeveloped or underdeveloped;
- an explanation of how the project will induce commercial development;
- the estimated number and type of jobs created as a result of the project;
- the estimated state sales tax revenue increment in the corridor;
- estimated local sales and property tax revenue generated as a result of the project; and
- a plan for funding and completing the project.

Once the commission approves the application, the Department of Revenue (DOR) is provided with the map of the transportation corridor.

The bill requires the DOR to determine the base state sales tax revenue collected from businesses within the transportation corridor. As businesses within the corridor remit more sales taxes, the additional state sales tax revenue is distributed to the local governments that were approved by the Transportation Commission. Local governments receive the tax increment for 30 years or until any bonds are paid off.

Local governments can create an authority which can build transportation projects, enter into contracts, and issue bonds. The authority may also create an enterprise under Article X, Section 20 of the state constitution to help finance the new transportation projects. The bill does not identify a TABOR-exempt revenue source for a new enterprise.

The local government, DOR, and CDOT are required to provide information to the Transportation Commission and General Assembly on the status of each project annually. In addition, this act is subject to the sunset review process of the General Assembly.

Background

Tax increment financing. Tax increment financing (TIF) is a tool used by government agencies to set aside a revenue stream for the repayment of bonds or for another specific purpose. Local governments in Colorado most commonly use TIF to generate capital for urban renewal projects. 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 by a financing entity (e.g., an urban renewal district). Base revenues are unaffected by the TIF, but tax collections above the base are diverted to the financing entity.

Government enterprises. TABOR defines an enterprise as "a government-owned business authorized to issue its own revenue bonds and receiving under 10 percent of annual revenue in grants from all Colorado state and local governments combined." Because the share of revenue that an enterprise may receive from government sources is capped, enterprises are largely financially independent of core government agencies. Additionally, enterprises cannot levy taxes.

State Revenue

The net revenue effect of the bill is to divert state sales tax revenue for up to 30 years from the General Fund to fund transportation projects. If 0.1 percent of sales tax growth occurs in a Regional Transportation Corridor, state sales tax revenue to the General Fund will be reduced by

$56,098 in FY 2017-18. The General Fund revenue reduction will grow over time as local governments utilize the program. The actual impact of the bill depends on several factors that are currently unknown.

The state will receive $85,000 in cash funds from local governments in FY 2016-17 for the DOR to modify the state's tax administration software.

Sales tax assumptions. The bill diverts growth in sales taxes in designated transportation corridors from the General Fund to local governments. If the additional taxable sales that generate the sales tax increment within the corridor would not have occurred elsewhere in the state and only occurred because of the passage of this bill, there is no revenue impact relative to the sales tax revenue forecast. If the sales that generate the sales tax increment would have occurred without this bill, then the bill will reduce state revenue.

The actual revenue impact will depend on several factors that are currently unknown, including:

- the number of Regional Transportation Development Projects;
- the size of the corridors;
- the type of commercial businesses that would locate without this bill; and
- the timing and location of the construction of future transportation projects without this bill.

Table 1 shows the General Fund impact of the bill for a range of fiscal years and utilization by local governments. If more regional transportation projects are approved, a larger share of sales tax growth will occur in the corridor reducing sales tax revenue by greater amounts. For example, if 0.1 percent of sales tax growth currently forecast occurs in the new regional transportation corridors, General Fund revenue will be reduced by $56,098 in FY 2017-18 and $1,478,833 in ten years. The table is based on the March Legislative Council Staff forecast and the historical 31 year annual average growth rate of state sales taxes of 4.4 percent.

Table 1. General Fund Revenue Reduction from SB 16-194

Percent of Sales Tax Growth that Occurs within Transportation Corridors	Year 1 (FY 2017-18)	Year 2 (FY 2018-19)	Year 10 (FY 2026-27)
0.1%	($56,098)	($188,349)	($1,478,833)
0.5%	(280,491)	(941,745)	(7,394,165)
1.0%	(560,981)	(1,883,491)	(14,788,330)
5.0%	(2,804,907)	(9,417,454)	(73,941,651)
10.0%	(5,609,814)	(18,834,908)	(147,883,302)

Once the bonds for the project have been repaid, or 30 years after the transportation project has been approved, sales taxes to the state General Fund may increase state revenue relative to current law, but only to the degree that the projects stimulated commercial development that would not have occurred at another location in the state and only occurred as a result of this bill.

Cash fund assumptions. The DOR is allowed to collect a fee for the costs of administering the distribution of state sales tax increment to local governments. The fee revenue collected depends on the costs of calculating and distributing the tax increment. The costs to modify the state's sales tax administration software is $85,000, which will be paid by local governments to the DOR in FY 2016-17.

TABOR Impact

This bill reduces state revenue from sales taxes, which will reduce the amount of money required to be refunded under TABOR for FY 2017-18. TABOR refunds are paid out of the General Fund. TABOR refund obligations are not expected for FY 2015-16 or FY 2016-17. 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.

State Expenditures

This bill will increase state expenditures to DOR by $85,000 in FY 2016-17. There will be increased workload for CDOT, DOR, and the Department of Local Affairs (DOLA) determined by several factors that are currently unknown.

Department of Transportation. The CDOT will accept and review applications for Regional Transportation Development Projects and recommend that the Transportation Commission approve, approve with changes, or deny the project. Each project will increase CDOT workload, but there are no assumptions made in the fiscal note regarding how many projects will be evaluated or how much time each evaluation will take. The CDOT will use the annual budget process and continuously appropriated moneys to implement this bill.

Department of Revenue. The DOR will determine the base sales tax revenue for each business located within the transportation corridor. GenTax, the state's tax administration software, will need to be modified to distribute the state sales tax increment revenue to local governments. The GenTax programing and testing will require $85,000 before the tax increment can be distributed to local governments. It is assumed the first projects will begin to receive the state sales tax increment in FY 2017-18, meaning the DOR will receive $85,000 from local governments to modify GenTax in FY 2016-17.

The workload increase for the DOR will depend on the number of businesses and the number of transportation projects affected by this bill. The DOR is allowed to offset the costs of administering this bill by charging a fee to local governments for calculating and distributing the increment. The DOR will use these fees and the annual budget process to implement this bill with General Fund appropriations.

Department of Local Affairs. If local governments create a regional transportation development authority, DOLA will certify that the authority has been organized according to state law. In addition, DOLA will record that property is located within the transportation development authority on real estate records. The actual workload increase will be determined by the number of authorities created under this bill. The DOLA will use the annual budget process to implement this bill with General Fund appropriations.

Local Government Impact

There is a conditional local government expenditure and revenue impact from this bill. If local governments are approved to start construction on a regional transportation development project, they will have costs associated with building the project, setting up the authority or enterprise, and selling bonds. Local governments will receive increased revenue from the state sales tax increment.

Effective Date

The bill was postponed indefinitely by the House Finance committee on May 10, 2016.

State Appropriations

For FY 2016-17, the Department of Revenue requires authority to spend any cash funds from local governments to administer the sales tax increment distribution to Regional Transportation Development Projects.

State and Local Government Contacts

Counties	Legal Services	Legislative Council
Local Affairs	Municipalities	Revenue
State Auditor	Transportation	