Colorado Legislative Council Staff

SCR17-002

FINAL FISCAL NOTE

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

Drafting Number: LLS 17-0706
Prime Sponsor(s): Sen. Kefalas

Date: May 31, 2017
Bill Status: Postponed Indefinitely
Fiscal Analyst: Kate Watkins (303-866-3446)

BILL TOPIC: REAL ESTATE TRANSFER TAX FOR AFFORDABLE HOUSING

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020	FY 2020-2021
State Revenue	**$27.2 million**	**$55.6 million**	**$58.0 million**
Real Estate Transfer Tax	$27.2 million	$55.6 million	$58.0 million
State Expenditures	**$215,836**	**$201,727**	**$201,727**
Housing Investment Trust Fund	175,359	158,400	158,400
Centrally Appropriated Costs	40,477	40,477	40,477
TABOR Impact	See the TABOR Impact section.		
FTE Position Change	3.0 FTE	3.0 FTE	3.0 FTE
Appropriation Required: None.			
Future Year Impacts: Ongoing conditional state revenue and expenditure increases.			

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

Summary of Legislation

This concurrent resolution refers a constitutional amendment to voters in the November 2017 election to approve a new 0.1 percent transfer tax on the sale of real property beginning in 2019. New revenue from the tax is dedicated to affordable housing. The new tax is collected by the County Clerk and Recorder when a deed is recorded.

Counties may retain up to 5 percent of the new tax, with remaining revenue deposited in the state Housing Investment Trust Fund to be administered by the Division of Housing within the Department of Local Affairs. These funds must be spent on affordable housing, defined as housing that is affordable to households with 60 percent of area median income or less. At least 30 percent of funds are required to support affordable housing for households with 30 percent of area median income or less.

Background

A real estate transfer tax is based on the sale or transfer price of real property, which includes land and buildings but does not include any personal property such as machinery. The Colorado Constitution currently prohibits a new or increased transfer tax on real property. This bill strikes this provision of the constitution.

State Revenue

If approved by voters, the new tax will **increase state revenue by $27.2 million in FY 2018-19 (half-year impact), $55.6 million in FY 2019-20, and $58.0 million in FY 2020-21.** These amounts are net of the county share (5 percent) of total tax revenue. Table 1 summarizes the estimated taxable sales and tax revenue for both the state and local governments under SCR17-002, if approved by voters.

Table 1. Estimated Taxable Sales and Tax Revenue under SCR17-002					
	Taxable Sales			Tax Revenue	
Fiscal Year	Residential	Nonresidential	Total	State Share	Local Share
FY 2018-19*	$24.3 billion	$4.3 billion	$28.6 billion	$27.2 million	$1.4 million
FY 2019-20	$49.7 billion	$8.8 billion	$58.5 billion	$55.6 million	$2.9 million
FY 2020-21	$51.9 billion	$9.1 billion	$61.0 billion	$58.0 million	$3.0 million

**Half-year impact.*

Residential property. Based on data published by the Colorado Association of Realtors, $42.6 billion in residential property was sold in 2016. To estimate the amount of residential sales subject to the new tax in tax year 2019 and beyond, this amount was grown by the five-year compound average annual growth rate (4.5 percent) for residential property tax values between 2011 and 2015, according to data from the Division of Property Taxation.

Nonresidential property. The estimated market value of nonresidential real property was 18.9 percent of the value of residential real property in 2015. Applying this share to the value of residential property sold in Colorado in 2016, this fiscal note assumes that $8.0 billion in nonresidential real property was sold in 2016. This amount was grown by the five-year compound annual average growth rate (2.8 percent) for nonresidential property tax values.

TABOR Impact

If approved by voters, revenue form the new tax will be a voter approved revenue increase and will have no impact on the TABOR situation.

State Expenditures

If approved by voters, the bill will **increase state expenditures for the Department of Local Affairs by $215,836 and 3.0 FTE in FY 2018-19, and by $201,272 and 3.0 FTE each year beginning in FY 2019-20.** As summarized in Table 2, these expenditures are required for personnel and operating costs for the Division of Housing to administer funds for affordable housing projects. The bill will also increase the workload of the Division of Property Taxation to update procedures and manuals. Workload increases to the Division of Property Taxation can be accommodated within existing appropriations.

Table 2. Expenditures Under SCR17-002		
Cost Components	**FY 2018-19**	**FY 2019-20**
Personal Services	$158,400	$158,400
FTE	3.0 FTE	3.0 FTE
Operating Expenses and Capital Outlays	16,959	2,850
Centrally Appropriated Costs*	40,477	40,477
TOTAL	**$215,836**	**$201,727**

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

Election expenditure impact (existing appropriations). This bill includes a referred measure that will appear before voters at the November 2017 general election. Although no additional appropriation is required in this bill, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas. First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet (Blue Book) mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department. Table 3 estimates the costs for a single ballot measure in 2017. These costs will increase by approximately $100,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

Table 3. Projected Costs of a Single Statewide Ballot Measure Election in 2017	
Cost Component	**Amount**
County Reimbursement for Statewide Ballot Measures	$2,700,000
Ballot Information Booklet (Blue Book) and Newspaper Publication	700,000
TOTAL	**$3,400,000**

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 4.

Table 4. Centrally Appropriated Costs Under SCR17-002		
Cost Components	**FY 2018-19**	**FY 2019-20**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$26,283	$26,283
Supplemental Employee Retirement Payments	14,194	14,194
TOTAL	**$40,477**	**$40,477**

Local Government Impact

The County Clerk and Recorder is required to collect taxes before a property deed can be recorded. This will increase the workload of county governments. As displayed in Table 1, the County Clerk and Recorder may retain up to 5.0 percent of the tax revenue, or an estimated $1.4 million (half-year impact) in FY 2018-19, $2.9 million in FY 2019-20, and $3.0 million in FY 2020-21.

Effective Date

The bill was postponed indefinitely by the Senate Agriculture, Natural Resources, and Energy Committee on May 3, 2017.

State and Local Government Contacts

Counties	County Clerks	Information Technology
Local Affairs	Personnel	Revenue
Secretary Of State's Office	Treasury	