# HB 24-1313

**Legislative Council Staff**

*Nonpartisan Services for Colorado's Legislature*

# Fiscal Note

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| **Drafting Number:** | LLS 24-0288 | **Date:** | March 4, 2024 |
| **Prime Sponsors:** | Rep. Woodrow; Jodeh<br>Sen. Hansen; Winter F. | **Bill Status:** | House Trans., Hous. & Local Gov't. |
| | | **Fiscal Analyst:** | Josh Abram \| 303-866-3561<br>josh.abram@coleg.gov |

**Bill Topic:** **HOUSING IN TRANSIT-ORIENTED COMMUNITIES**

**Summary of Fiscal Impact:**

☒ State Revenue ☒ State Transfer ☒ Local Government
☒ State Expenditure ☒ TABOR Refund ☒ Statutory Public Entity

The bill requires that certain local governments plan and implement housing density goals approved by the Department of Local Affairs (DOLA) and creates a grant program and other technical assistance to support these efforts. Noncompliant local governments forfeit their state allocation of funding from the Highway Users Tax Fund. DOLA may seek an injunction in district court requiring compliance. Qualified communities may receive funding from a new grant program. The bill also increases the amount of affordable housing tax credits issued by the Colorado Housing and Finance Authority. Beginning FY 2024-25, the bill reduces state income tax revenue, transfers money from the General Fund, and increases expenditures by the state and affected local government. Beginning FY 2025-26, the bill may decrease local government revenue and divert Highway Users Tax Fund.

**Appropriation Summary:** For FY 2024-25, the bill requires an appropriation of $183,138 to the Colorado Energy Office. The other funds affected by the bill are continuously appropriated. See State Appropriations section.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1**
**State Fiscal Impacts Under HB 24-1313**

| | | Budget Year FY 2024-25 | Out Year FY 2025-26 |
|---|---|---|---|
| **Revenue** | General Fund | ($2.3 million) | ($17.3 million) |
| | **Total Revenue** | **($2.3 million)** | **($17.3 million)** |
| **Expenditures** | General Fund | $183,138 | $83,138 |
| | Cash Funds | $8,924,688 | $8,797,295 |
| | Centrally Appropriated | $127,895 | $144,358 |
| | **Total Expenditures** | **$9,235,721** | **$9,024,791** |
| | **Total FTE** | **6.6 FTE** | **7.5 FTE** |

**Table 1**
**State Fiscal Impacts Under HB 24-1313 (Cont.)**

| | | Budget Year FY 2024-25 | Out Year FY 2025-26 |
|---|---|---|---|
| **Transfers and Diversions** | General Fund | ($35 million) | - |
| | Cash Fund | $35 million | - |
| | Highway Users Tax Fund | - | (not estimated) |
| | HUT Account | - | not estimated |
| | **Net Transfer / Diversion** | **$0** | **not estimated** |
| **Other Budget Impacts** | TABOR Refunds | ($2.3 million) | ($17.3 million) |
| | General Fund Reserve | $27,471 | $12,471 |

## Summary of Legislation

The bill identifies local governments that must create, report, and implement a housing opportunity goal to increase housing inventory or forfeit allocations of Highway Users Tax Fund (HUTF) revenue from the state. The Department of Local Affairs (DOLA) in collaboration with the Colorado Energy Office (CEO) and the Colorado Department of Transportation (CDOT), must provide broad technical assistance to affected local governments, and administer a grant program to assist with planning, compliance, and infrastructure projects.

**Transit-oriented communities.** The bill affects any municipality with a population of at least 4,000 residents that lies within a metropolitan planning organization (MPO). The bill also affects county governments whose jurisdictions include a specific portion of a transit station area or transit corridor.

**Housing opportunity goal report.** The bill requires that transit-oriented communities submit a housing opportunity goal report to DOLA. A preliminary report is due by January 2025 and another by December 2026. Progress reports are required every three years. The housing opportunity goal report must:

- calculate a housing opportunity goal to determine a target average zoned housing density;
- include data, methodology and maps used to calculate the goal;
- identify zoning districts that may qualify as transit centers or neighborhood centers;
- adopt affordability strategies, displacement mitigation strategies, and implementation plans; and,
- if applicable, provide an analysis that there are insufficient water supplies to provide the needed domestic service necessary to meet the goal.

DOLA must either approve the report or provide direction for amending and resubmitting the report. If a transit-oriented community fails to create the housing opportunity goal report or if DOLA does not approve the report by December 2027, or if progress reports are not submitted and approved, DOLA must designate the community as non-qualified. DOLA may seek an injunction from a district court requiring the transit-oriented community to comply.

**Nonqualified transit-oriented communities.** Beginning December 2026, DOLA must report nonqualified transit-oriented communities to the State Treasurer each month, and the treasurer must transfer HUTF money that would otherwise be allocated to the nonqualified transit-oriented community to the newly created Transit-oriented Communities Highway Users Tax Account. If the community becomes qualified with DOLA within 180 days, the treasurer pays back any amount withheld during that period. Money in the account may only be awarded for specified allowable grant purposes.

**Transit and neighborhood centers.** The bill establishes multiple criteria for transit-oriented communities to designate areas as transit centers and neighborhood centers, with these designations subject to approval by DOLA. Among other requirements, transit centers must net housing density requirements, have an administrative process for multifamily development on specific parcels, and be located within a transit area. DOLA may establish other criteria communities must use to designate transit and neighborhood centers.

**DOLA technical assistance.** By July 31, 2024, DOLA must consult with MPOs and transit agencies to publish a map designating transit areas to be used in calculating local governments' housing opportunity goals. By December 1, 2024, DOLA must publish models and guidance to assist local governments in meeting their goals, and calculating the appropriate housing density for transit-oriented communities. By June 30, 2025, DOLA must develop a menu of standard affordability strategies and long-term and alternative affordability strategies for communities to adopt and include in their housing opportunity goal reports. DOLA must also provide guidance and a methodology for local governments to conduct displacement risk assessments, and develop a menu of displacement mitigation strategies.

**Grant program.** The bill creates the Transit-oriented Communities Infrastructure Grant Program in DOLA to assist local governments with planning, community engagement, and infrastructure projects for the benefit of regulated affordable housing, transit centers and neighborhood centers.

**Funding.** The bill creates the Transit-oriented Communities Infrastructure Fund in the state treasury (the fund), and the Highway Users Tax Account within the fund (the HUT account). In FY 2024-25, the treasure must transfer $35 million from the General Fund to the fund. Beginning in FY 2025-26, HUTF money that would otherwise be allocated to a local government that has been designated a nonqualified transit-oriented community is diverted to the HUT account in the fund.

Money in the fund is continuously appropriated to DOLA. The department may spend up to six percent of money in the fund and up to six percent of money in the HUT account for administrative expenses to provide technical assistance, enforce the reporting requirements, and administer the grant program.

**Affordable housing tax credit.** Under current law, the affordable housing tax credit is allocated to qualified developers building affordable housing. The bill expands the tax credit, allowing the Colorado Housing and Finance Authority (CHFA) to allocate a total of $30 million to qualified housing developments between 2024 and 2031, including developments within transit centers and neighborhood centers.

## Background

**Metropolitan Planning Organizations.** A metropolitan planning organization (MPO) is a federally mandated policy board that facilitates the metropolitan transportation planning process in urbanized areas with a population over 50,000. Colorado has five MPOs: the Denver Regional Council of Governments, the North Front Range MPO, the Pikes Peak Area Council of Governments, the Pueblo Area Council of Governments, and the Grand Valley Metropolitan Council.

## State Revenue

The bill authorizes a total of $30 million for tax credits that may be allocated between calendar years 2024 and 2031. Assuming the total $30 million is allocated in 2024 and the bill utilizes a 6-year credit period consistent with current law, General Fund revenue will decrease an estimated $2.3 million in FY 2024-25 and $17.3 million in FY 2025-26. The bill decreases income tax revenue, which is subject to TABOR.

The fiscal note assumes that CHFA will allocate additional credits immediately, and claims may begin in January 2025 for a six-year credit period. The note assumes 15 percent of qualified projects are placed in service within one year of CHFA approval, and 85 percent are put into service within two years. Developers may be allocated the value of the credit, but the actual tax credit can only be claimed with the Department of Revenue once the project is placed in service and is renting affordable units. The timing of projects placed in service depends on a number of factors including construction and permitting timelines. If allocations and development timelines differ from the assumptions in this analysis, General Fund revenue impacts may differ from these estimates.

## State Transfers and Diversions

In FY 2024-25, the bill transfers $35 million from the General Fund to the Transit-oriented Communities Infrastructure Fund.

In FY 2025-26, the bill diverts allocations of HUTF funding from local governments that are nonqualified transit-oriented communities to the Transit-oriented Communities Highway Users Tax Account in the Transit-oriented Communities Infrastructure Fund. The amount diverted will depend on the number and location of nonqualified TOCs and the diverted allocation amounts, and cannot be estimated in advance.

## State Expenditures

The bill increases state expenditures by about $9.2 million in FY 2024-25 and $9.0 million in FY 2025-26 and ongoing. Expenditures are in DOLA, CDOT, and the CEO, paid from a combination of cash funds and General Fund. Workload may also increase in the Departments of Law and Regulatory Agencies and the Judicial Department. Expenditures are shown in Table 2 and detailed below.

**Table 2**
**Expenditures Under HB 24-1313**

| | FY 2024-25 | FY 2025-26 |
|---|---|---|
| **Department of Local Affairs** | | |
| Personal Services | $360,130 | $422,785 |
| Operating Expenses | $6,144 | $7,296 |
| Capital Outlay Costs | $40,020 | - |
| Local Government Information System Upgrade | $70,000 | $5,000 |
| Consultant Services | $163,450 | $83,940 |
| Infrastructure Grants | $8,200,000 | $8,200,000 |
| Centrally Appropriated Costs[1] | $90,241 | $106,705 |
| FTE – Personal Services | 4.8 FTE | 5.7 FTE |
| **DOLA Subtotal** | **$8,929,985** | **$8,825,726** |
| **Department of Transportation** | | |
| Personal Services | $76,994 | $76,994 |
| Operating Expenses | $1,280 | $1,280 |
| Capital Outlay Costs | $6,670 | - |
| Centrally Appropriated Costs[1] | $20,097 | $20,097 |
| FTE – Personal Services | 1.0 FTE | 1.0 FTE |
| **CDOT Subtotal** | **$105,041** | **$98,370** |
| **Colorado Energy Office** | | |
| Personal Services | $80,584 | $80,584 |
| Operating Expenses | $1,024 | $1,024 |
| Consultant | $100,000 | - |
| Technical Mapping Services | $1,530 | $1,530 |
| Centrally Appropriated Costs[1] | $17,557 | $17,557 |
| FTE – Personal Services | 0.8 FTE | 0.8 FTE |
| **CEO Subtotal** | **$200,695** | **$100,695** |
| **Total** | **$9,235,721** | **$9,024,791** |
| **Total FTE** | **6.6 FTE** | **7.5 FTE** |

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

## Department of Local Affairs

DOLA will have costs to provide technical assistance and oversee implementation of the bill's transit-oriented community goals, and to manage a new grant program, as outlined below.

- **Staff.** DOLA requires 4.7 FTE in FY 2024-25 and 5.7 FTE in FY 2025-26 in the Division of Local Government and the Division of Housing, including a manager, program assistant, technical assistance planner and statistical analyst, to implement the reporting and compliance requirements and provide other technical assistance to transit-oriented communities. These staff also include contracting and communication specialists to assist with the grant program. Personal services include standard operating and capital outlay costs.

- **Local government information system upgrade.** The Office of Information Technology will provide upgrades to the Local Government Information System to receive and host new document types and reports submitted by transit-oriented communities to the department.

- **Consultant services.** DOLA requires consultant services to create and refine models, advise staff on complex technical issues related to compliance and grant program awards, and to assist with evaluations and feedback on housing opportunity goal reports.

- **Infrastructure grants.** The Transit-oriented Communities Infrastructure Fund will have $35 million in FY 2024-25. Assuming this funding is available for four years, through FY 2027-28, approximately $2.2 million will be spent for administrative purposes, leaving about $32.8 million to provide in grants to qualified transit-oriented communities. Assuming this amount is distributed evenly across 4 years equals about $8.2 million in grants annually, beginning FY 2024-25.

## Colorado Department of Transportation

CDOT requires 1.0 FTE Analyst V to assist DOLA with consulting services, planning and oversight, and participate in outreach and training when implementing the reporting and compliance requirements.

## Colorado Energy Office

The Colorado Energy Office will require the equivalent of 0.8 FTE at the analyst level to coordinate with CDOT and DOLA, including assistance with document review, technical assistance, grant application review, and other implementation activities. The CEO assumes it will have a lead role in developing technical analysis and mapping for the transit areas map with DOLA and CDOT, which requires the purchase of consultant services to help create appropriate models and provide guidance and technical mapping services.

### Other State Agencies

The Department of Law will have an increase in workload to provide legal services to partner agencies implementing the act, and to represent DOLA in regulatory actions if TOCs are noncompliant. The bill also increases workload in the Judicial Department if regulatory actions are taken. This fiscal note assumes that regulatory actions will be rare, and that any increased work for the departments does not require appropriations.

### 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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## Other Budget Impacts

**TABOR refunds.** The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in Table 1. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

## Local Government

Subject jurisdictions will have increased costs to analyze existing transit areas and calculate the required housing opportunity goal, review and update local codes and ordinance, report progress and demonstrate compliance with DOLA, and apply for and manage grants. Affected local governments that do not provide reports or otherwise adopt required strategies and implement a housing opportunity goal will forfeit transportation funding allocated from the HUTF.

## Statutory Public Entity

Colorado Housing and Finance Authority (CHFA) will have an increase in administrative expenses to issue additional affordable housing tax credits to qualified taxpayers.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of $183,138 to the Colorado Energy Office, and 0.8 FTE.

Expenditures in the Department of Local Affairs are paid from the Transit-oriented Communities Infrastructure Fund and expenditures in the Colorado Department of Transportation are paid from the State Highway Fund. These funds are continuously appropriated to their respective departments, and no additional appropriations are required in this bill.

## State and Local Government Contacts

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|---|---|---|
| CHFA | Counties | Law |
| Local Affairs | Municipalities | Energy Office |
| Revenue | Transportation | |