HB08-1395

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL
REVISED FISCAL IMPACT

(replaces fiscal note dated April 22, 2008)

Drafting Number:	LLS 08-1083	**Date:**	April 29, 2008
Prime Sponsor(s):	Rep. Marostica Sen. Windels	**Bill Status:**	Senate Finance
		Fiscal Analyst:	Todd Herreid (303-866-2633)

TITLE: CONCERNING A PROPERTY TAX EXEMPTION FOR CERTAIN PROPERTY LEASED BY GOVERNMENTAL ENTITIES THAT USE THE PROPERTY FOR GOVERNMENTAL PURPOSES.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue General Fund	$0	$9,000
State Expenditures General Fund - School Finance Act*	$0	$193,000
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: 90 days after final adjournment of the General Assembly (August 6, 2008 if adjournment is May 7, 2008), unless a referendum petition is filed.		
Appropriation Summary for FY 2008-2009: None required.		
Local Government Impact: See Local Government Impact section.		

* *School Finance Act expenditures could be from the General Fund, State Education Fund, or a combination of both. These expenditures could be offset by property tax savings as described in the State Revenue and Expenditures section of the note.*

Summary of Legislation

Under current law, property that is rented or leased to some local governments, such as school districts and municipalities, is exempt from property taxation. Moreover, property rented or leased to state or county governments that is subject to a lease-purchase agreement is also exempt from property taxation. The reengrossed bill extends a property tax exemption to any real property that is leased or rented by state and local governments for at least a one-year term. However, the bill specifies that the exemption only applies to leases or rental agreements entered into or renewed on or after January 1, 2009.

State Revenue and Expenditures

School Finance Act. The bill is expected to increase state expenditures under the School Finance Act by $193,000 in FY 2009-10 and $309,000 in FY 2010-11. As existing leases expire and are renewed, the school finance impact will continue to grow. The state's share of public school total program funding will increase by the amount of local school operating property taxes foregone due to the bill's exemption for state and local governments that rent or lease real property.

Based on data compiled by the State Architect's Office on state government leases of real property, the bill is expected to eventually reduce statewide assessed value by a total of $44.6 million as existing leases expire and are renewed. This will begin in property tax year 2009. The reduction in assessed value will reduce school operating property taxes by approximately $193,000 in FY 2009-10, which the state is required to backfill. The fiscal note does not anticipate that the magnitude of the loss in nonresidential assessed value will trigger a Gallagher Amendment change, which would reduce the residential assessment rate.

In addition, some state government leases with private property owners contain provisions that require the owners to pass through property tax savings to the tenant. However, it is uncertain when these savings would be received or how many leases contain such provisions. For full-service leases, it is also unclear if the reduction in property taxes for an owner would result in lower leasing rates. Since rent is driven by market conditions and property taxes are a portion of the expenses charged to a tenant, a reduction in taxes may allow an owner to maintain the same rent and recapture a higher portion of operating expenses or increase its profit margin. Moreover, when a lease expires, owners can renegotiate the terms of the lease such that the property tax savings are entirely captured by the owner or jointly shared with the owner.

Consequently, the size of the property tax savings realized by state government is unknown and will depend upon leasing provisions and the rates negotiated by the state. Because the bill is reducing property taxes by an amount exceeding the school finance impact, the savings to the state could outweigh the school finance expenditure. To the degree that property tax savings are realized, the budget process can address those through negative supplemental appropriations for each state agency.

It should also be noted that the decrease in property tax liability may increase a company's income tax liability if the company has an income tax liability. This is because of a lower property tax deduction from taxable income. The increase in income taxes is estimated at about $9,000 in FY 2009-10.

Local Government Impact

Local governments will lose property tax revenue because of the bill's provision to provide an exemption for real property that is rented or leased to state or local governments. For local governments that consistently reach their revenue limit due to high assessed value growth, the impact of the bill will be felt through smaller decreases in the mill levy. A portion of the money that would have been received from taxpayers will instead be spread out over the remaining tax bills in the form of higher mill levies than would have occurred without the bill. For local governments that do not reach their revenue limit, the bill will reduce property taxes. If no local governments reach their revenue limit, the bill will reduce non-school property taxes by up to $450,000 in FY 2009-10 and $720,000 in FY 2010-11.

In addition, county assessors will face increased administrative costs to verify the tax exempt status of leases to state government agencies. For instance, county assessors will have to prorate the tax exempt portion of buildings that have state government tenants. This will require assessors to gather, compile, and analyze lease information for buildings that have multiple-tenants. County assessors will also have to record leasing information and expiration dates for future reference. The magnitude of these costs has not been estimated in the fiscal note.

State Appropriations

In FY 2008-09, no state appropriations are needed to implement the bill.

Departments Contacted

All Departments