



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

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| Drafting Number: | LLS 22-0954 | Date: | April 26, 2022 |
| Prime Sponsors: | Rep. McCluskie; Tipper Sen. Moreno | Bill Status: | House Finance |
| | | Fiscal Analyst: | Greg Sobetski 303-866-4105 Greg.Sobetski@state.co.us |

Bill Topic: HIGHER EDUCATION INSTITUTION ENTERPRISE STATUS

Summary of Fiscal Impact:

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|---|--|
| <input type="checkbox"/> State Revenue | <input checked="" type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill clarifies that higher education institutions that were previously qualified as state enterprises do not require voter approval in order to requalify as enterprises. It potentially decreases state expenditures and decreases state TABOR refunds on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

The bill clarifies that certain higher education entities that were previously qualified as state enterprises do not require voter approval in order to requalify as enterprises when they again satisfy the applicable fiscal criteria. It applies to institutions of higher education and to auxiliary facilities managed by an institution of higher education or the Auraria Higher Education Center.

Background

Enterprises. An enterprise is a government-owned business that is authorized to issue revenue bonds and that receives less than 10 percent of its revenue from state and local government sources combined. Revenue collected by programs designated as enterprises is not subject to the state's TABOR limit.

All state higher education institutions were designated as enterprises in 2004. Some of the smaller institutions, including Adams State University, Fort Lewis College, and Western Colorado University, are occasionally disqualified as enterprises when state contributions exceed 10 percent of their revenue, often due to state-funded capital improvement projects. These institutions may requalify as enterprises once state contributions again fall below 10 percent of their revenue.

When a program is disqualified as an enterprise, a corresponding upward adjustment is made to the state TABOR limit. When a program requalifies as an enterprise, a corresponding downward adjustment is made to the state TABOR limit.

Proposition 117. Proposition 117, approved by voters in 2020, requires voter approval for a state enterprise to be qualified or created if its projected or actual revenue exceeds \$100 million in its first five fiscal years. The measure does not specifically address whether a previously qualified enterprise requires voter approval in order to requalify as an enterprise.

Assumptions

It is unclear whether requalification of higher education entities as enterprises would require voter approval under current law, and, if approval were required, whether a ballot measure would actually be referred to voters. If voter approval is not required under current law, then the bill has no fiscal impact. If voter approval is required under current law, then the bill potentially decreases state expenditures and decreases state TABOR refunds, as discussed below.

State Expenditures

If the bill reduces the number of ballot measures referred to voters in the future, it will decrease expenditures for the Department of State and the Legislative Department related to holding the election, drafting the statewide voter guide (Blue Book), and related duties. The amount and timing of the decrease are indeterminate because it depends on the number of ballot measures that would otherwise be referred and when.

Other Budget Impacts

If the bill causes higher education entities to requalify as enterprises, it will reduce TABOR refunds to taxpayers in some future years. Refunds will decrease in years when revenue to the higher education entity grows faster than the combined rates of inflation and population growth.

Effective Date

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

State and Local Government Contacts

Higher Education