HB 18-1054

Legislative Council Staff
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FINAL FISCAL NOTE

Drafting Number:	LLS 18-0671	**Date:**	August 13, 2018
Prime Sponsors:	Rep. Rosenthal Sen. Court	**Bill Status:**	Postponed Indefinitely
		Fiscal Analyst:	Meredith Moon | 303-866-2633 Meredith.Moon@state.co.us

Bill Topic: AFFORDABLE HOUSING PLASTIC SHOPPING BAG TAX

Summary of Fiscal Impact:

☒ State Revenue (*conditional*)
☒ State Expenditure (*conditional*)
☐ State Transfer
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

This bill, conditional upon voter approval, would have levied a tax of $0.25 per transaction in which at least one plastic bag is issued at large and/or chain stores. The revenue from the tax would have been allocated to the Housing Development Grant Fund to fund affordable housing. This bill would have resulted in an ongoing annual increase in state revenue and expenditures.

Appropriation Summary: Conditional upon voter approval, for FY 2018-19, this bill would have required appropriations of $1,215,204 to the Department of Revenue and $121,435 to the Department of Local Affairs.

Fiscal Note Status: This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 18-1054

		FY 2018-19	FY 2019-20
Revenue (*conditional*)	Cash Funds	$22,000,000	$40,000,000
	Total	**$22,000,000**	**$40,000,000**
Expenditures (*conditional*)	General Fund	$1,094,640	-
	Cash Funds	$21,961,115	$39,969,227
	Centrally Appropriated	$112,116	$358,569
	Total	**$23,167,871**	**$40,327,796**
	Total FTE	**3.7 FTE**	**14.5 FTE**
Transfers		-	-

Summary of Legislation

Conditional upon voter approval, this bill imposes a $0.25 tax on each transaction in which a plastic bag is issued, irrespective of the quantity of bags used. Transactions will be taxed only at stores that are either part of a chain or occupy over 2,000 square feet of space. Consumers using federal Supplemental Nutrition Assistance Program (SNAP) benefits are exempt from paying the tax. The following types of bags are excluded from the tax:

- plastic bags used inside a store to package bulk goods or contain various goods for purchase;
- dry cleaning or garment bags;
- bags to contain prescriptions;
- take-out bags at restaurants; and
- compostable or reusable plastic bags.

Stores that collect the tax will be allowed to retain one percent of the tax ($0.0025) per transaction for the collection and remittance of the tax to the Department of Revenue. Revenue from the plastic bag tax sufficient to cover the state's administrative expenses of collecting the tax is deposited into the Plastic Shopping Bag Tax Administration Cash Fund; the remaining revenue generated will be deposited into the Housing Development Grant Fund in the Department of Local Affairs for the purpose of affordable housing projects.

Background

Housing Development Grant Fund. Under current law, the Housing Development Grant Fund consists of monies appropriated by the General Assembly to acquire, rehabilitate, and construct affordable housing projects through a competitive grant process. The fund also covers the cost of acquiring economic data used to advise the State Housing Board on local housing conditions. The fund was created pursuant to House Bill 09-1213 and is administered by the Division of Housing in the Department of Local Affairs. In FY 2017-18, the Housing Development Grant Fund received a total of approximately $23.3 million from both the General Fund ($8 million) and from marijuana sales tax revenue ($15.3 million). The Division of Housing expects to obligate all of the funds available during this fiscal year. The typical funding amount per project is approximately $500,000.

Assumptions

To estimate the number of transactions in the state in which plastic bags are issued, it was assumed that an average of 342 plastic bags are consumed per capita annually in Colorado, and approximately 4 plastic bags are issues per transaction. The consumer population is assumed to be adults in Colorado, excluding households that receive SNAP benefits. Based on estimates from municipalities that have implemented fees on plastic bags, consumers are assumed to reduce the number of transactions in which plastic bags are issued by 20 percent each year under the new tax.

State Revenue

Conditional upon voter approval, this bill conditionally increases state cash fund revenue by approximately $22 million in FY 2018-19 (half-year impact) and by $40 million in FY 2019-20. As stated above, these estimates assume a decrease in the number of transactions in which plastic bags are issued by 20 percent annually, which will correspondingly decrease annual revenue by 20 percent per year.

Table 2
Conditional Revenue Under HB 18-1054

	Plastic Shopping Bag Tax
FY 2018-19 (half year)	$22,000,000
FY 2019-20	$40,000,000
FY 2020-21	$32,000,000
FY 2021-22	$26,000,000
FY 2022-23	$21,000,000

Revenue would first be diverted to the Plastic Shopping Bag Tax Administration Cash Fund to cover costs required to implement and administer the tax. The remaining revenue would be diverted to the Housing Development Grant Fund, which is administered by the Division of Housing in the Department of Local Affairs.

Table 3
Conditional Revenue Under HB 18-1054

	FY 2018-19	FY 2019-20
Plastic Shopping Bag Tax Administration Cash Fund	$280,884	$831,163
Housing Development Grant Fund	$21,719,116	$39,168,837
Total Cash Funds	**$22,000,000**	**$40,000,000**

TABOR Refund

This bill increases state revenue by $22 million in FY 2018-19 and by $40 million in FY 2019-20, which will increase the amount of money required to be refunded under TABOR. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Conditional upon voter approval, state expenditures will increase $23.1 million and 3.7 FTE in FY 2018-19, and $40.3 million and 14.5 FTE in FY 2019-20 with similar ongoing expenditure impacts in subsequent years. These estimates are based on the amount of revenue expected to be generated from the new tax. To the extent that revenue differs from these expectations, state expenditures could be higher or lower. Administrative implementation costs of this tax are designed to be funded by the new tax; however, there will be a lag between initial required costs and the incoming tax revenue. These impacts are described below.

Table 4
Conditional Expenditures Under HB 18-1054

Cost Components	FY 2018-19	FY 2019-20
Department of Revenue		
Personal Services	$99,757	$305,974
Operating Expenses and Capital Outlay Costs	$20,807	$26,868
GenTax Programming	$1,000,000	-
Outreach & Education Costs	$94,640	-
Centrally Appropriated Costs*	$48,108	$113,550
FTE – Personal Services	2.1 FTE	6.5 FTE
Department of Revenue (Subtotal)	**$1,263,312**	**$446,392**
Department of Local Affairs		
Personal Services	$91,892	$441,078
Operating Expenses and Capital Outlay Costs	$25,035	$21,709
Other Costs (Legal, Computer Programming, Travel, Cell Phones, Network Administrator)	$4,508	$4,761
Affordable Housing Grants	$21,719,116	$39,168,837
Centrally Appropriated Costs*	$64,008	$245,019
FTE – Personal Services	1.6 FTE	8 FTE
Department of Local Affairs (Subtotal)	**$21,904,559**	**$39,881,404**
Total	**$23,167,871**	**$40,327,796**
Total FTE	**3.7 FTE**	**14.5 FTE**

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

Department of Revenue. The new tax under this bill requires changes to the Department of Revenue's GenTax software system during FY 2018-19 in order to collect and process tax returns. Changes are programmed by a contractor at a rate of $250 per hour. The changes in this bill are expected to increase General Fund expenditures by $1 million, representing 400 hours of design, development, testing, and form changes. This fiscal note assumes that these expenditures will be appropriated from the General Fund because a system must be in place before tax revenues can be collected.

The Department of Revenue will incur one-time costs in FY 2018-19 for outreach to educate retailers on the new tax. Outreach is expected to require $94,640 to notify about 56,000 retailers. These costs would also be incurred before tax revenue is generated, and are assumed to be paid from the General Fund.

Beginning in FY 2018-19, the Department of Revenue requires 2.1 additional FTE in the Taxpayer Services call center and for tax return processing, as well as for tax audit and compliance. In FY 2019-20, a total of 6.5 additional staff are required in these same positions.

Department of Local Affairs. The number of staff required is contingent upon the amount of new tax revenue collected. This fiscal note assumes that for every $5 million in additional revenue into the Housing Development Grant Fund, one additional FTE will be required to review grant applications. This staff will serve as Asset Managers and Housing Development Specialists to properly review applications and assess each project accurately. Based on revenue estimates, in FY 2018-19 (half-year estimate) an additional 1.6 FTE are required, and in FY 2019-20, an additional 8.0 FTE are required.

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, supplemental employee retirement payments, and leased space are estimated to be $112,116 in FY 2018-19 and $358,569 in FY 2019-20.

Election expenditure impact — existing appropriations. This bill includes a referred measure that will appear before voters at the November 2018 general election. While 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, estimated at $3.2 million in FY 2018-19. 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 mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost $2.1 million in FY 2018-19. Publication costs will increase by approximately $115,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

Technical Note

If approved by voters, the time between the election date and the required January 1, 2019, implementation of the new tax may not be sufficient to allow state agencies and retailers to establish processes needed to collect and remit the new tax. Therefore, revenue collected may be delayed.

Effective Date

This bill was postponed indefinitely by the House Local Government Committee on January 31, 2018.

State Appropriations

This bill requires the following appropriation in FY 2018-19, if approved by voters:

- $1,094,640 from the General Fund to the Department of Revenue for one-time computer system programming and educational outreach costs;

- $120,564 from the Plastic Shopping Bag Tax Administration Cash Fund to the Department of Revenue for tax audit and compliance staff; and
- $121,435 from the Plastic Shopping Bag Tax Administration Cash Fund to the Department of Local Affairs for administrative expenses.

State and Local Government Contacts

Revenue	Local Affairs	Human Services
Counties	Municipalities	Information Technology