



Legislative Council Staff

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FISCAL NOTE

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Prime Sponsors: Sen. Hansen; Pettersen Bill Status: Senate Transportation
Rep. Valdez A. Fiscal Analyst: Larson Silbaugh | 303-866-4720
Larson.Silbaugh@state.co.us

Bill Topic: SUSTAINABLE SEVERANCE & PROPERTY TAX POLICIES

- Summary of Fiscal Impact:
- State Revenue (checked)
- State Expenditure (checked)
- State Transfer (unchecked)
- TABOR Refund (checked)
- Local Government (checked)
- Statutory Public Entity (unchecked)

This bill extends and expands a property tax exemption for community solar gardens, increases coal severance tax collections to reimburse local governments for the reduction in local property tax revenue under the bill. The reimbursement is a new TABOR refund mechanism. The bill will increase state revenue and expenditures on an ongoing basis beginning in FY 2020-21, and result in no net impact to local government revenue.

Appropriation Summary: For FY 2020-21, the bill requires an appropriation of \$49,376 to the Department of Revenue.

Fiscal Note Status: This fiscal note represents the introduced bill.

Table 1
State Fiscal Impacts Under SB 20-168

Table with 4 columns: Category, Sub-category, FY 2020-21, FY 2021-22. Rows include Revenue (Cash Funds, Total), Expenditures (General Fund, Total), Transfers, and TABOR Refund.

Summary of Legislation

This bill extends and expands a property tax exemption for community solar gardens (CSGs), increases coal severance tax collections to reimburse local governments for the reduction in local property tax revenue under the bill. The reimbursement is a new TABOR refund mechanism.

Property tax exemption for community solar gardens. The bill extends the existing property tax exemption for CSG property used to generate electricity for residential, governmental, and non-profit customers by five years until 2026 and expands the CSG exemption to state-assessed property.

Increase coal severance tax collections. Under current law, the first 300,000 tons of coal produced each quarter by each mine is exempt from the coal severance tax. The bill discontinues this severance tax exemption effective January 1, 2020.

Coal severance taxpayers are allowed to take a credit equal to 50 percent of severance taxes paid on underground coal. The bill eliminates this credit effective January 1, 2020.

Sustainable Energy Tax Policy Fund and new TABOR refund mechanism. The bill creates the Sustainable Energy Tax Policy Fund (fund), which will receive the additional coal severance tax revenue generated under the bill. The fund will be used to reimburse local governments for the reduction in property tax revenue from the bill. Expenditures from the fund are accounted for as a TABOR refund mechanism. When there is insufficient revenue in the fund, the bill requires a General Fund expenditure to reimburse local governments for reduced property taxes.

Background and Assumptions

Community solar gardens. As of January 2019, there are 231 megawatts from CSGs at Xcel Energy and about 13 megawatts from CSGs at Black Hills Energy that are operational or committed through 2019. The Xcel Energy and Black Hills Energy CSGs are valued by the State Assessed Properties section of the Division of Property Taxation within the Department of Local Affairs (DOLA). Smaller renewable energy facilities are valued by county assessors.

Property tax exemption. Based on the nameplate capacity of these CSGs, it is estimated that the bill will reduce the taxable value by \$59.4 million per year. Using average mills for each county in 2018, the most recent data available, this reduction in assessed value will reduce local property tax revenue by an estimated \$5.2 million per year. The amount may increase as more CSGs are constructed.

State Revenue

The bill increases coal severance tax revenue by \$2.9 million in FY 2020-21 (half-year impact) and \$5.7 million in FY 2021-22. Revenue generated by the bill is deposited into a the newly created Sustainable Energy Tax Policy Fund, which is subject to TABOR.

Removal of the severance tax exemption for initial quantity of coal. In FY 2018-19, approximately 46.6 percent of coal produced in Colorado was exempt from severance taxation. Repealing the exemption is estimated to increase the amount of coal subject to severance taxes by the same percentage.

Removal of credit for underground coal. In FY 2018-19, 10.4 million tons of underground coal was mined. The credit for underground coal reduced coal severance taxes by \$0.42 for each ton mined.

Forecast for coal severance tax revenue. Table 2 shows the current law forecast for coal severance tax revenue, and the additional revenue from eliminating the exemption for the first 300,000 tons mined per quarter and the tax credit for underground coal for FY 2019-20 through FY 2021-22, the end of the forecast period. The revenue impact for FY 2020-21 represents a partial year impact to account for accrual accounting.

Table 2
Coal Severance Tax Revenue Under SB 20-168

	FY 2019-20	FY 2020-21	FY 2021-22
December 2019 Forecast	\$3.3 million	\$3.0 million	\$2.7 million
First 300,000 Ton Exemption	-	\$0.7 million	\$1.3 million
Underground Coal Credit	-	\$2.2 million	\$4.4 million
Total Coal Severance Tax	\$3.3 million	\$5.9 million	\$8.4 million
Revenue Increase Under SB 20-168	-	\$2.9 million	\$5.7 million

State Expenditures

This bill will increase state General Fund expenditures by \$2,349,376 in FY 2020-21 only. This amount includes \$2.3 million to reimburse local governments and \$49,376 for computer programming in the Department of Revenue. The bill will also modify TABOR refund mechanisms. These impacts are discussed below.

Reimbursement for local governments – Office of the State Treasurer. The bill requires the Office of the State Treasurer to reimburse local governments for the reduction in property tax revenue. The first source of local government reimbursements is from the Sustainable Energy Tax Policy Fund, with any remaining reimbursements made from the General Fund. Table 3 shows the reduction in property tax revenue discussed in the Background and Assumptions section of the note, the revenue available in the Sustainable Energy Tax Policy Fund, and the estimated expenditure from the General Fund in FY 2020-21. In any year in which the reduction in local property tax revenue exceeds the increase in coal severance tax revenue there will be a General Fund obligation to reimburse local governments. The state also has the obligation to reimburse local governments when there is not a TABOR surplus. The office will administer reimbursements from the fund within existing resources.

**Table 3
Local Government Reimbursement under SB 20-168**

	FY 2020-21	FY 2021-22
Local Government Property Tax Reduction	(\$5.2 million)	(\$5.2 million)
Sustainable Energy Tax Policy Fund	\$2.9 million	\$5.2 million
General Fund	\$2.3 million	-
Amount Remaining in Sustainable Energy Tax Policy Fund	\$0	\$0.5 million

Department of Revenue. The bill will increase Department of Revenue expenditures by \$49,376 in FY 2020-21 only to program, test, and update database fields in the department's GenTax software system and redesign the coal severance tax form. Programming costs are estimated at \$33,750, representing 150 hours of contract programming at a rate of \$225 per hour. Costs for testing at the department are estimated at \$15,360, representing 640 hours of contract testing at a rate of \$24 per hour. The redesign of the coal severance tax form, so that taxpayers cannot claim the exemption or the credit, is estimated to cost \$266.

Division of Property Taxation — DOLA. The division will develop new valuation templates for locally assessed renewable energy facilities for use by county assessors. amend existing property statement forms for renewable energy properties and develop procedures for assessing CSGs for state assessed utilities in FY 2020-21. These workload increases can be accomplished within existing resources.

TABOR refunds. The bill is expected to increase state obligations for TABOR refunds by \$2.9 million in FY 2020-21 and \$5.7 million in FY 2021-22. The bill treats the reimbursement to local governments for the loss of property taxes under the bill as a new TABOR refund mechanism. This mechanism refunds revenue in excess of the amount required to pay for homestead exemptions and before the temporary income tax rate reduction and six-tier sales tax refund mechanisms in current law are triggered. A forecast of TABOR refund is unavailable beyond FY 2021-22.

- *FY 2020-21.* The additional coal severance tax revenue will be insufficient to fully reimburse local governments for the reduction in property tax revenue. The remaining reimbursement of \$2.3 million will be paid from the General Fund, correspondingly decreasing TABOR refunds expected to be paid via the six-tier sales tax refund mechanism under the December 2019 Legislative Council Staff forecast.
- *FY 2021-22.* The local government reimbursement will total \$5.2 million, which is \$0.5 million less than increased coal severance tax revenue. This will increase the General Fund TABOR refund obligation by \$0.5 million in FY 2021-22, increasing the amount refunded via the six-tier sales tax refund mechanism.

Local Government

This bill results in no net impact to local government revenue. As shown in Table 3, this bill is anticipated to reduce local property tax revenue by \$5.2 million per year starting in FY 2020-21, and increase local revenue from the new TABOR refund mechanism in the bill by the same amount.

Workload for county assessors and county treasurers will increase to estimate the reduced property tax revenue from the bill, and provide that information to the State Treasurer for reimbursement. Workload will vary depending on the number of community solar gardens in each county.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2020-21, the bill requires a General Fund appropriation of \$49,376 to the Department of Revenue.

State and Local Government Contacts

Colorado Energy Office
Information Technology
Natural Resources
Special Districts

Counties
Local Affairs
Property Tax Division
Treasury

County Assessors
Municipalities
Revenue