HB13-1183

Colorado Legislative Council Staff Fiscal Note

FINAL FISCAL NOTE

Drafting Number:	LLS 13-0701	**Date:**	July 1, 2013
Prime Sponsor(s):	Rep. Levy; Gerou Sen. Lambert	**Bill Status:**	Signed into Law
		Fiscal Analyst:	Josh Abram (303-866-3561)

TITLE: CONCERNING THE IMPOSITION OF A CAP OF FORTY-FIVE MILLION DOLLARS ON THE TOTAL AMOUNT OF STATE INCOME TAX CREDITS THAT MAY BE CLAIMED BY ALL TAXPAYERS EACH YEAR FOR THE DONATION OF A CONSERVATION EASEMENT IN GROSS.

Fiscal Impact Summary	FY 2013-14	FY 2014-15	FY 2015-16
State Revenue General Fund	$12.5 million*	$22.5 million*	$10 million*
State Expenditure Cash Funds Conservation Easement Holder Certification Fund	$21,245	$21,245	$21,245
FTE Position Change	0.4 FTE	0.4 FTE	0.4 FTE
Effective Date: The bill was signed into law by the Governor on May 23, 2013, and takes effect August 7, 2013, assuming no referendum petition is filed.			
Appropriation Summary for FY 2013-2014: None required. See State Appropriations section.			
Local Government Impact: None.			

**Represents one-half year on an accrual accounting basis.*

Summary of Legislation

This bill is recommended by the Joint Budget Committee. Under current law, the total amount of tax credits claimed for conservation easements is limited to $22 million for 2011 and 2012, and $34 million for 2013. This bill adds a limitation of $45 million beginning 2014, and extends that limitation indefinitely. Claims for tax credits are made in the order in which they are submitted. Any claims for tax credits that exceed the limit are placed on a wait list and given credit in a future year when the limitation has not been exceeded, except that no more than $15 million in clams can be placed on the wait list in any given calendar year.

Background

The conservation easement tax credit was originally enacted in 1999, and has been amended several times since. The credit is allowed for individuals and corporations who donate land for a perpetual conservation easement to a government entity or a charitable organization. The owner of an easement continues to maintain the right to prohibit certain acts with respect to the property in order to preserve its value for recreation, education, habitat, open space, or historical importance. If the taxpayer's state income tax liability is larger than the amount of the tax credit, the unused portion of the credit may be carried forward for up to 20 years. Alternatively, the tax credit can be transferred to another taxpayer.

Between tax year 2001 and tax year 2009, taxpayers claimed approximately $639 million in conservation easement tax credits for donation of approximately 3,200 conservation easements. The program reached a high in 2007, with $128.5 million in tax credits claimed for that year. Subsequent to legislative changes and the implementation of a fixed cap on total credits for 2011, 2012, and 2013, both donations and the amount of credits claimed have decreased. In the last year for which actual data is available (tax year 2009), the amount of credits claimed decreased to $45.2 million. Existing credits disallowed due to previous caps and new credits from pent-up demand are estimated to result in $70.0 million in claimed credits in FY 2013-14, $65.0 million in claimed credits in FY 2014-15, and $45.0 million in claimed credits in FY 2015-16.

State Revenue

Limiting conservation easement tax credits to $45.0 million annually increases General Fund revenue by an estimated $25.0 million in FY 2013-14, and $20.0 million in FY 2014-15. Beginning in FY 2015-16, the cap approximates the amount that would have been claimed under current law, so no impact is anticipated. It is impossible to know the actual amount of credits that will be claimed, and changing data and assumptions will result in a different forecast. This note will be revised if additional information becomes available.

This bill sets a $45.0 million limit on the amount of tax credits that can be claimed beginning with tax year 2014. Under current law, there is no cap. This fiscal note assumes that without a dollar limitation during the past three years, more conservation easements would have been donated, and more tax credits granted, than actually occurred. This is assumed for two reasons. First, the cap reduced existing and otherwise qualifying tax credits by virtue of the fixed dollar limitation: only credits up to the cap were permitted, and taxpayers who were disallowed due to the cap must apply their credit in a future year, beginning tax year 2014. Second, the limitation likely discouraged some property owners from donating conservation easements, knowing that the cap placed them in low priority for receiving the credit. These property owners did not donate an easement, nor receive a tax credit.

State Expenditures

The bill increases cash fund expenditure in the Department of Regulatory Agencies by $21,245 and 0.4 FTE beginning in FY 2013-14. The Division of Real Estate requires 0.4 FTE Compliance Investigator I to collect, record, and track claims for certification of conservation easement tax credits to ensure credits are claimed in the order filed. Costs will be paid from the Conservation Easement Holder Certification Fund. The cash fund expenses in the bill are part of the DORA's FY 2013-14 budget request.

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State Appropriations

The funding necessary for the DORA to track and record conservation easement tax credits is included in the DORA base budget request for the 2013 Long Bill, and no separate appropriation is required.

Departments Contacted

Judicial	Law	Natural Resources
Property Taxation	Regulatory Agencies	Revenue