HB 22-1006

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated January 13, 2022)

Drafting Number:	LLS 22-0054	**Date:**	January 27, 2022
Prime Sponsors:	Rep. Roberts; Van Winkle Sen. Donovan; Smallwood	**Bill Status:**	House HHS
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Bill Topic: **CHILD CARE CENTER PROPERTY TAX EXEMPTION**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☒ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

This bill expands an existing property tax exemption to include property that is rented or leased and used as an integral part of a childcare center. This bill increases state revenue beginning in FY 2022-23 and state expenditures beginning in FY 2023-24. This bill also reduces local government revenue beginning in FY 2023-24. These impacts continue in future years.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill. It has been revised to include additional information.

Table 1
State Fiscal Impacts Under HB 22-1006

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Funds	$9,800	$4,200
Expenditures	General Fund	-	$867,000
Transfers		-	-
Other Budget Impacts	TABOR Refunds	$9,800	$4,200
	General Fund Reserve	-	$130,050

Summary of Legislation

Under the state constitution, property used solely and exclusively for charitable purposes is exempt from property tax, unless otherwise provided by law. Under this constitutional authority, there is currently a statutory exemption for property used as an integral part of a childcare center.

This bill modifies that exemption by repealing the requirement that the property must be owned for strictly charitable purposes and not for private gain or corporate profit, and that the property must be irrevocably dedicated to a charitable purpose. These changes allow property leased or rented by a tenant to operate a childcare center (CCC) to be eligible for the property tax exemption.

Background

Property taxes. With a few exceptions, nonresidential property is assessed as a fixed rate of 29 percent of its actual value under current law. Therefore, the assessed (taxable) value (AV) of a nonresidential property with a market actual value of $100,000 is $29,000. Property tax is collected by various local taxing entities, including municipalities, counties, school districts, and special districts. Each local taxing entity establishes a mill levy that is multiplied by the taxable value of all taxable property within the jurisdiction. One mill generates $1.00 for each $1,000 of assessed value. Property taxes are collected in arrears, in the first half of the calendar year following the property tax year. For example, 2023 property taxes will be collected in the first half of 2024.

School Finance. Under current law, money to fund the school finance act comes from a combination of local and state sources. The local share, primarily property taxes, is counted first. State equalization aid provides the difference between a district's total funding and the district's local share.

Assumptions

According to the Division of Property Taxation (DPT), there are currently 93 nonresidential properties in Colorado that are exempt from property taxation because they are owner-operated and an integral part of a childcare center. These centers have a combined AV of nearly $58 million, implying an average AV of $622,000. In addition, the Office of Economic Development and International Trade (OEDIT) conducted a survey of 191 CCCs statewide, including 41 owner-operated nonprofit and 42 rented/leased nonprofit CCC’s. Assuming the geographic distribution of potentially qualified rental/leased CCCs is similar to that of exempt owner-occupied CCCs, both data sources were disaggregated by county. This fiscal note estimates that 56 potential applicants will qualify for the exemption created in the bill in FY 2022-23, and apply for an exemption renewal in FY 2023-24, using the following assumptions:

- if neither the DPT data nor the OEDIT survey showed a qualified nonprofit CCC in the county, no applicants were assumed;
- if the DPT data had a positive number of CCCs in a given county, but the OEDIT survey showed none, no applicants were assumed;
- if the DPT data had no exemptions in a given county, but the OEDIT survey showed a positive number, that number of applicants was assumed; and

- if both the DPT data and the OEDIT survey showed a positive number in a given county, the maximum of the survey amount or the DPT number, pro-rated by survey percentages of owner occupied to leased/rented in that county was assumed.

Once potential applicants were estimated by county, the following assumptions were used to estimate AV qualifying for exemption under the bill:

- in counties with existing exemptions, the average AV from owner-occupied CCCs was assumed for the estimated rented/leased CCCs;
- in counties without existing exemptions, nonprofit CCCs were identified by zip code through a web search, and the AV for that CCC, identified through the county assessors web site, was assumed; and
- for a remaining 10 properties across 5 counties, the statewide average AV from the DPT data ($622,000) was assumed.

The resulting estimated statewide AV qualifying for exemption under the bill totaled $39.3 million. County level AV estimates were then combined with county average mills from the DPT Annual Report and total program mills from the Legislative Council Staff school finance model to get the estimated loss in local government and school district revenue.

State Revenue

The bill increases state cash fund revenue from property tax exemption application fees by at least $9,800 in FY 2022-23 and at least $4,200 in FY 2023-24 and future fiscal years, assuming at least 56 new exemption applications will be received in FY 2022-23 and 56 renewals will be received in FY 2023-24 and subsequent years. This revenue is subject to TABOR.

Fee impact on property tax exemption applications. Colorado law requires legislative service agency review of measures that create or increase any fee collected by a state agency. By creating a property tax exemption for property owners that lease property for the use of a childcare center, this bill will increase the number of exemption applications and exemption renewals received by the Division of Property Taxation in the Department of Local Affairs (DOLA). Table 2 estimates the fee impact of this bill using the tax exemption application fee ($175) and renewal fee ($75) under current law.

Table 2
Fee Impact on Property Tax Exemptions Under House Bill 22-1006

Fiscal Year	Type of Fee	Current Fee	Number Affected	Total Fee Impact
FY 2022-23	Property Tax Exemption Applications	$175	56	$9,800
FY 2023-24	Property Tax Exemption Renewals	$75	56	$4,200

State Expenditures

This bill increases state expenditures by at least $867,000 beginning in FY 2023-24 and continuing in future years to fund school finance equalization. These expenditures may be covered with either General Fund or State Education Fund, but this fiscal note assumes they will be covered with General Fund. The bill also increases workload for the Division of Property Taxation. These impacts are shown in Table 3 and are discussed below.

Table 3
Expenditures Under HB 22-1006

Cost Components	FY 2022-23	FY 2023-24
Department of Education		
State Share of School Finance	-	$867,000
Total Cost	**-**	**$867,000**

DOLA - Division of Property Taxation. Property tax specialist staff at the Division of Property Tax in the DOLA will review, inspect, and approve property tax exemptions from property owners claiming the new exemption. It is expected that the Division can implement the bill with the estimated number of new exemption applications within existing appropriations. Future staffing needs will depend on the number of exemption applications received and will be adjusted through the annual budget process.

School Finance. This bill will reduce the amount of property taxes collected, and therefore the amount of revenue available for the local share of school finance by at least $867,000 beginning in FY 2023-24, with ongoing impacts in future fiscal years. This reduction in the amount of local share increases the amount of state equalization by $867,000 under the assumption that the school finance budget stabilization factor will remain unchanged in FY 2022-23. To the extent that more than 56 properties qualify for this property tax exemption, the school finance impact will increase. It is assumed that future appropriations, if needed, will be addressed through the annual budget process.

DHS – Office of Early Childhood. The Office of Early Childhood (OEC) in the Department of Human Services (DHS) licenses and provides technical assistance and support to childcare programs in the state. One Licensing Specialist is assumed to be able to support 100 licensed childcare programs. This fiscal note estimates there are 56 existing, nonprofit childcare centers that would qualify for and receive the new property tax exemption. At this time, it is unknown how many new, nonprofit childcare centers would be incentivized into operation directly as a result of the expanded exemption, presumably over the course of several years. This fiscal note assumes that any additional appropriations for licensing staff in the OEC, if required, will be addressed through the annual budget process.

Other Budget Impacts

TABOR refunds. This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR by $9,800 in FY 2022-23 and $4,200 in FY 2023-24. 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 2023-24.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by at least $130,050 in FY 2023-24 and future years, which will decrease the amount of General Fund available for other purposes.

Local Government

Local government property tax revenue will be reduced by $3.0 million beginning in FY 2023-24 with ongoing annual impacts. These impacts are shown in Table 4 and described below.

Assessed values. There are currently 93 property tax exemptions granted for real and personal property used as an integral part of an owner-operated childcare center. It is assumed that 56 additional childcare centers that lease or rent properties will be eligible and apply for the property tax exemption created in this bill. Using the location of the currently exempt real and personal property reported to the Division of Property Taxation, property values from county assessor's offices, and OEDIT survey results, it is estimated that the bill will reduce assessed values by $39.3 million per year.

Property tax revenue. Cities, counties, school districts, and special districts receive property tax revenue. Using the weighted average mills for school districts and other local governments, exempting $39.3 million in assessed values will reduce local government property tax revenue by an estimated $3.0 million per year as shown in Table 4. The bill is effective for tax year 2023, and 2023 property taxes will be paid in the first half of 2024.

Table 4
Change in Property Tax Revenue Under HB 22-1006

	FY 2022-23	FY 2023-24
Property Tax Revenue		
Cities, Counties, Special Districts	-	($2,108,000)
School Districts	-	($867,000)
Total Cost	**$0**	**($2,975,000)**

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed. The bill applies to property tax years beginning in 2023.

State and Local Government Contacts

Counties
Human Services
Local Affairs - Property Tax Division
County Assessors
Information Technology
Special Districts