Multiple Agency Fiscal Note Summary

Bill Number: 5118 S SB	**Title:** Multifamily property tax ex.

Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Commerce	Fiscal note not available											
Department of Revenue	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total $	**0.0**	**0**	**0**	**0**	**0.0**	**0**	**0**	**0**	**0.0**	**0**	**0**	**0**

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Commerce	Fiscal note not available								
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Total $	**0.0**	**0**	**0**	**0.0**	**0**	**0**	**0.0**	**0**	**0**

Estimated Capital Budget Breakout

This preliminary package is incomplete and may not reflect the total fiscal impact. Other agencies' fiscal notes will be distributed as soon as possible.

Prepared by: Amy Hatfield, OFM	Phone: (360) 280-7584	Date Published: Preliminary 2/ 4/2024

Department of Revenue Fiscal Note

Bill Number: 5118 S SB	Title: Multifamily property tax ex.	Agency: 140-Department of Revenue

Part I: Estimates

☒ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☐ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Melissa Van Gorkom	Phone: 360-786-7491	Date: 01/25/2024
Agency Preparation:	Frank Wilson	Phone: 360-534-1527	Date: 01/31/2024
Agency Approval:	Valerie Torres	Phone: 360-534-1521	Date: 01/31/2024
OFM Review:	Amy Hatfield	Phone: (360) 280-7584	Date: 02/01/2024

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Note: This fiscal note reflects language in SSB 5118, 2024 Legislative Session.

COMPARISON OF SUBSTITUTE BILL WITH ORIGINAL BILL:
The substitute bill:
- Reverts the 99-year exemption provided in the original bill back to the 12-year exemption and the 20% rental commitment requirement.
- Adds requirements for the current 20-year MFTE specific to transit.
- Makes MFTE program duration, designation, and penalty requirements changes.
- Tenants whose income increases after qualifying for an exempt unit remain qualified unless their income exceeds the 150% income limit.
- Revises the definitions of low- and moderate-income households and city.
- Adds that the new tax preference performance provisions do not apply to this bill (see section 8 of the bill).

CURRENT LAW:
Currently, the value associated with new construction, conversion, or rehabilitation of qualifying multi-unit residential improvements located in residential targeted areas designated by a qualifying county, city, or town may be exempt from property tax for either 8, 12, or 20 years. The exemption is commonly known as the "multifamily housing tax exemption."

Each of the 8, 12, or 20-year exemptions have their own qualifying requirements that include, but are not limited to, some combination of the following: proximity to transit, density, zoning, rent affordability restrictions on a percentage of units, the length of time the restriction lasts, tenant relocation assistance at the end of the exemption, etc. Additionally, the city, town, or county where the project is located may adopt or implement more stringent qualifying requirements. Meeting certain requirements allow an extension of the exemption.

PROPOSAL:
This bill makes specific changes to the multifamily housing tax exemption (MFTE) program.

For the current 12-year MFTE exemption:
- Applicants must commit to rent or sell at least 20% of the multifamily housing living units net square footage as affordable to low and moderate-income households.
- The number of bedrooms for the affordable housing corresponds with the bedrooms at the market rate.
- The bill adds that an applicant must record a covenant or deed restriction outlining the affordability restrictions and the duration of the authorized authority.

For the current 20-year MFTE exemption with transit requirements:
- The bill adds that the project must be in a residential target area to include high-capacity transit requirements and eliminates a project from having to be within one mile of high-capacity transit.
- The number of bedrooms for the affordable housing corresponds with the bedrooms at the market rate.

For the current 20-year MFTE exemption, for non-profit or government partner projects for permanently affordable homeownership, the bill changes the word "area" to "project." For these projects, density requirements will apply to the net density of a project, not the zoning density.

This bill also eliminates the requirement for multiunit housing in an unincorporated area of a county to impose affordable housing requirements.

The bill adds that the land value for the exemptions mentioned above applies to the percentage of square feet of the affordable housing to the total square feet of the qualifying project. The bill also describes how to calculate square footage.

The bill updates the overall MFTE program duration, designation, and penalty requirements as follows:
- Permits an income-restricted tenant to increase household income annually up to 150% of the set income restriction for the unit without facing eviction or a penalty upon lease renewal.
- Changes the requirement for a residential target area (RTA) must be in an unincorporated area within the urban growth area (UGA) by:
    - Removing the need to include a county with a college of 1200 students living on campus.
    - Adds that a county can have a population greater than 275,000, or until July 15, 2026, the RTA can be in a county promoting transit-supportive densities.
- Authorizes a city or county to impose the highest penalty on the owner who brought a project into violation and, if applicable, to impose a lower or no penalty on the other owners.

The bill adds and revises definitions as follows:
- Adds the definition of conversion to mean the conversion of an existing residential building or a nonresidential building to multiple-unit housing.
- Changes the definition of low- and moderate-income households from median family income to area median income.
- Changes the definition of City to mean any city or town, eliminating population requirements.

The new tax preference performance provisions do not apply to this bill (see section 8 of the bill).

EFFECTIVE DATE:
The bill takes effect 90 days after the final adjournment of the session.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:
- Local governments administer this exemption, the bill allows local governments to choose to adopt the exemption or not. The bill also allows local governments to set additional qualifying restrictions.
- The additional changes to the substitute version of this locally administered exemption do not change the original revenue estimate because the applicants that will participate are unknown.

REVENUE ESTIMATE:
The Economic and Revenue Forecast Council predicts the state property tax levy remains below the $3.60 limit throughout the 2027-29 biennium. This bill results in a shift to other taxpayers and no loss to the state levy.

PROPERTY TAX SHIFTS:
Due to the uncertainty around local government implementation of this legislation, the state levy shift is indeterminate.

Local districts will also experience an indeterminate shift of taxes to other taxpayers. The local shift may result in a local revenue loss due to levy limits.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The Department of Revenue will have minimal costs of approximately $2,540 for 40 hours of work by a property acquisition specialist to implement this legislation. The department will absorb these costs within current funding.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

III. B - Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5118 S SB	**Title:** Multifamily property tax ex.

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- [X] Cities: potential loss of property tax revenue, tax shift
- [X] Counties: same as above
- [X] Special Districts: same as above
- [ ] Specific jurisdictions only:
- [ ] Variance occurs due to:

Part II: Estimates

- [ ] No fiscal impacts.
- [ ] Expenditures represent one-time costs:
- [X] Legislation provides local option: Local governments can approve the tax exemption
- [X] Key variables cannot be estimated with certainty at this time: Which properties would be granted a tax exemption and for how much

Estimated revenue impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Tammi Alexander	Phone: 360-725-5038	Date: 01/31/2024
Leg. Committee Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 01/25/2024
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/31/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/01/2024

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

- updates the definition for city to include any city or town, including a code city
- clarifies that a conversion means the conversion, in whole or in part, of a building
- clarifies the definitions of low- and moderate-income household to use area median income rather than median family income
- provides that square footage will be the living units net square footage with each living unit measured to the inside finished surface of the exterior wall and to the inside surface of walls separating living units from other living units and common areas
- clarifies that the affordable housing units must be a mix of low and moderate-income households
- requires the authorizing authority to require the applicant record a covenant or deed restriction for the 12-year program which defines the affordability requirements and their duration
- provides that for the purpose of parity, market rate units with three or more bedrooms will be considered equivalent to three bedroom affordable dwelling units
- requires the project be within a residential target area that includes areas with high capacity transit, rather than be located within one mile of high capacity transit, to qualify for the 20-year exemption and removes the population threshol
- provides that the project must have an average minimum density equivalent to 15 dwelling units or more per net acre instead of requiring the area to be zoned to have an average minimum density equivalent to 15 dwelling units or more per gross acre
- allows annual household incomes of tenants with income-restricted units to increase up to 150 percent of the established unit income limit without eviction or penalty at lease renewal
- replaces the requirement that a residential targeted area designated by a county be in a county that includes a higher education campus where at least 1,200 students live during the academic year with a requirement that it be in a county with a population greater than 275,000
- extends the allowance for a county seeking to promote transit supportive densities and efficient land use from July 15, 2024 to July 15, 2026
- requires the governing authority provide notice of a hearing to consider the designation of the residential targeted area to be sent to the affected taxing district
- removes requirement for multiunit housing in an unincorporated area of a county to impose affordable housing requirements
- requires the conditional certificate of acceptance of tax exemption to be sent to the county assessor
- requires all cities and counties to report annually to the Department of Commerce (Commerce) on contracts executed, amended, or extended during the previous year
- authorizes Commerce to develop rules necessary to effectively audit or review compliance
- authorizes the city or county to assign the highest penalty to the owner who caused a project to be out of compliance and a lesser or no penalty to the other owners if a penalty applies
- makes other technical changes

SUMMARY OF CURRENT BILL:

This bill:
- updates eligibility, notification and reporting requirements for multifamily property tax exemptions
- includes the value of new affordable housing constructed and corresponding land for the 12 and 20 year exemptions
- allows a tenant with an income-restricted unit to increase annual household income up to 150 percent of the established unit income limit without eviction or penalty at lease renewal
- authorizes a city or county to assign the highest penalty to the owner who caused a project to be out of compliance and a lesser or no penalty to the other owners, if a penalty applies

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

CHANGES IN EXPENDITURE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The changes in the substitute version do not create any new fiscal impacts to local governments.

EXPENDITURE IMPACTS OF CURRENT BILL:

This bill would not impact local government expenditures. The program already exists and no new action is required.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

CHANGES IN REVENUE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The changes in the substitute version do not create any new fiscal impacts to local governments, the impact is still indeterminate.

REVENUE IMPACTS OF CURRENT BILL:

This bill would have an indeterminate, negative revenue impact on local governments. The number of newly eligible properties applying for and receiving the tax exemption is unknown, therefore the tax revenue loss cannot be calculated.

According to the Department of Revenue, local governments administer this exemption, the bill allows local governments to choose to adopt the exemption or not, and allows local governments to set additional qualifying restrictions.

This exemption will result in no revenue loss to the state school levy as the tax burden will shift to other taxpayers. Due to the uncertainty around how local governments will implement this legislation, the amount of shift is indeterminate.

Local regular levy districts will also experience an indeterminate shift of taxes. The shift could result in local revenue loss due to levy limits.

Sources:
Department of Revenue fiscal note, PSSB 5118 (2024)
Senate Bill Report, Housing Committee, SB 5118 (01/26/2024)