


Colorado Legislative Council Staff Fiscal Note
FINAL
FISCAL NOTE

Drafting Number: LLS 10-0688	Date: May 13, 2010
Prime Sponsor(s): Sen. Kopp Rep. Rice; Priola	Bill Status: Signed into Law
	Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING THE REIMBURSEMENT OF COSTS INCURRED ON CHANGE ORDERS IN PUBLIC WORKS CONTRACTS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
State Expenditures		
FTE Position Change		
Effective Date: The Governor signed the bill into law on March 31, 2010, and unless a referendum petition is filed, the bill will take effect August 11, 2010.		
Appropriation Summary for FY 2010-2011: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

Under SB10-116, any public entity that requires additional work on a construction contract is required to reimburse the contractor's costs on a periodic basis until the change order is complete. Contractors are required to submit an estimate to the public entity before receiving payment.

State Revenue and Expenditures

This fiscal note assumes that SB10-116 will not affect state payments to contractors. Under current law, all contracts involving the payment of state monies include a clause specifying that the contract is not valid until it has been approved by the state controller. The controller reviews all requests for a commitment voucher to ensure that the request can be accommodated within existing appropriations and that the prices are fair and reasonable. State agencies are prohibited from approving a commitment voucher that exceeds their appropriation, and any such obligation is not binding. The controller is directed by law to promulgate fiscal rules that uphold the provisions of Section 24-30-202, C.R.S. and SB10-116 specifically says that section will stay in force. Under fiscal rule, a commitment voucher relating to a change order for a construction contract has a specific dollar amount that all parties agree to be held to, and payment may not begin until the controller provides approval.

Local Government Impact

SB10-116 could have a fiscal impact for local governments that engage in public works contracts. Under this bill, a local government would be required to start making payments on a change order upon receipt of a contractor's estimate. This could affect how local governments chose to contract for public works contracts and increase their total price. In current practice, payments do not begin until the change order is finalized. This allows the local government to continue to earn interest on monies until they are formally committed to the contractor with a signed change order. The amount of any reduced interest income has not been calculated.

It should also be noted that the bill does not contain language requiring that cost estimates be agreed to by both parties. This fiscal analysis assumes that local governments could experience increased litigation costs due to discrepancies over the final cost of a change order. These costs cannot be estimated.

Departments Contacted

All departments