



# House Bill 17-1161 - Official City Position

Approved by Westminster City Council on February 16, 2017

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**HB 17-1161 (Rep. Beckman): Concerning measures to promote transparency in connection with urban renewal projects allocating tax revenues.**

Official City Position: **OPPOSE**

Status: **Active** – Scheduled for first hearing in House Business Affairs and Labor Committee on February 21, 2017.

Description:

House Bill 17-1161 requires that, no later than 90 days after the end of the first fiscal year of an urban renewal authority wherein a municipality allocates any incremental property or sales tax revenues of a taxing entity other than the municipality, a report be prepared for public distribution and provided to all taxing entities. The report must be completed on the same day each year thereafter. The annual report must also include an independent audit containing a report on whether the urban renewal authority has used any incremental property or sales tax revenues for any purposes other than “eligible costs” or “eligible improvements” as defined by the legislation. In the audit, a certified public accountant (CPA) must attest to the accuracy of the annual report and report whether the authority has used any incremental property or sales tax for ineligible purposes. If the audit finds that any incremental property or sales tax revenues have been used for ineligible purposes, the authority is liable for the repayment of the tax revenues to the taxing entities.

City Comments:

Staff recommends that the City oppose HB 17-1161. Although it purports to promote transparency with respect to urban renewal authorities’ operations, this bill’s provisions will adversely impact the financing of current and future projects, will increase project costs, and will be redundant given the existing transparency requirements of the Colorado Open Records Act. This bill also represents an unfunded mandate on urban renewal authorities by imposing unnecessary and expensive additional reporting requirements on these entities. The provisions of this bill would likely apply to the Westminster Economic Development Authority.

The bill contains new definitions of “eligible costs” and “eligible improvements” that are narrower in scope than existing law and that could create problems for existing projects and those in the pipeline. The bill also includes retroactive payback provisions for expenditures or improvements that are deemed not eligible under the new definitions – potentially impacting bond commitments.

It also requires that a CPA attest to whether or not expenditures are for authorized eligible costs; this requires a legal opinion and is not one which a CPA is trained or qualified to make. Further, the bill requires urban renewal authorities to submit an independent audit that is prepared by a CPA. Such a compliance audit would go beyond the scope of a financial audit, requiring additional work and increasing costs. Because of the bill's retroactive nature, existing urban renewal authorities with adopted plans will have to begin reporting and potentially refunding incremental revenue, even for projects which have already commenced or been completed. The potential for an after-the-fact liability to arise from an authority following a discovery by an auditor of an ineligible expense will make financing more difficult.

In Westminster's case, the Westminster Economic Development Authority is a component unit of the City. As such, its financial information is included in Westminster's Comprehensive Annual Financial Report and reviewed as part of the City's annual financial audit. Therefore, independent auditors are already attesting that the Authority's financial information presents fairly, in all material respects, the financial position of its activities. Many of the financial reporting requirements prescribed in the bill are redundant in that respect.

While the Westminster Economic Development Authority provides transparency through the City's annual financial audit, it is also currently subject to the Colorado Open Records Act and the Colorado Sunshine Act. As such, all meetings must be noticed and public and all documents and records (unless exempted) are open to inspection. We believe that additional transparency in the form of an audit report is not necessary.