

# SENATE BILL [25-272](#): Official City Position

Approved by Westminster City Council on April 10, 2025

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SENATORS: Winter, F., Catlin, REPRESENTATIVE(S): none

Concerning a sales and use tax exemption for construction materials used in creating housing for a regional transportation authority's staff.

**Official City Position:** OPPOSE

**Status:** **Active** – This bill was introduced in the Senate on April 1, 2025. It will have its first committee hearing in the Senate Transportation & Energy on April 14, 2025.

Description:

The bill establishes a sales tax exemption for contractors and subcontractors that purchase construction and building materials for use in the building, erection, alteration, or repair of structures owned and used by a regional transportation authority (authority) to house authority employees or contractors. The bill also establishes a use tax exemption for the storage, use, or consumption by a contractor or subcontractor of construction and building materials for use in the building, erection, alteration, or repair of such structures. The bill authorizes an authority or an authority's board to build, erect, alter, or repair such structures for the purpose of housing employees or contractors of a regional transportation authority.

City Comments: This legislation is in opposition to the following principles as set forth in the City's [2025 Legislative Policy Statement](#):

**HOME RULE AND LOCAL CONTROL**

Opposes legislation that mandates state intervention in matters of local concern, especially when that intervention unnecessarily or adversely affects the City's ability to manage these matters pursuant to its home rule authority.

**GENERAL FINANCE**

Opposes state-granted exemptions or other state actions that erode municipal sales taxes, use taxes, property taxes, and other revenue sources unless the state provides adequate replacement revenues.

Under current law, all sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works are exempt from the sales and use tax levied by the state and statutory cities. Home rule cities may continue to levy the tax on use of construction and building materials within their jurisdiction. This bill removes the authority of home rule cities to decide whether they wish to tax the use of construction and building materials utilized by a regional transportation authority in the construction of employee housing.

The City levies one-time 3.85% tax on materials used in construction. A portion of this tax, 0.85%, was established through voter approval dedicating 0.25% to Open Space and 0.6%

to Public Safety. This tax is levied on all construction projects regardless of whether the organization is for-profit, non-profit, or a governmental entity.

Of significant importance, as well, are the Westminster taxpayers who actually bear the burden of taxes necessary to support essential services for housing developments of any nature throughout the City. With respect to housing developments, the City provides police, fire, road, park, recreation and a host of other services that benefit such developments on an ongoing basis. Construction use tax is often used to offset a small portion of the cost of providing these services.

Exempting construction and building materials used to construct or repair housing erected by a regional transportation authority will be detrimental to City revenues and therefore will impact the provision of services to residents. The City has and will continue to partner with housing developers on a case-by-case basis to pursue opportunities that create a “win-win” situation. The City has a history of entering into Intergovernmental Agreements to rebate a portion of the use tax. Because 0.85% of the use tax was established through voter approval and is dedicated directly to Open Space and Public Safety, that portion of the use tax is not included in these agreements, or other similar economic development agreements.

If this bill is signed into law as proposed, it will:

- directly conflict with the City’s Home Rule authority;
- violate the word and the spirit of Article XX, Section 6 of the Colorado Constitution; and
- undermine the will of the voters by attempting to overrule the voter approval of taxes.

It also:

- provides opportunities for further erosions of the City’s tax code and Home Rule authority in the future; and
- will further diminish the voice and power of Westminster residents by replacing the power of local elected officials with statewide control.

Having and preserving home rule authority increases the effectiveness and efficiency of local government services and enhances the quality of life and value provided to Westminster taxpayers. This bill directly conflicts with the City’s Home Rule authority. Additionally, this is not a matter of statewide concern.

In 2022, home rule municipalities, including Westminster, successfully brought an action to challenge the very similar House Bill 22-1024 which attempted to force home rule municipalities to exempt construction materials purchased by private contractors working on school construction projects. As a result of this action House Bill 22-1024 was struck down by the District Court as “an unlawful infringement upon the Cities’ home rule taxing authority granted in Article XX, Section 6 of the Colorado Constitution”. This legislation is remarkably similar to what was struck down in HB 22-1024.