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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/09

SPONSOR Park LAST UPDATED _____ HB 416

SHORT TITLE Extraterritorial Powers to Municipalities SB _____

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 Regulation and Licensing Department (RLD)
 New Mexico Municipal League

No Response

Association of Counties

SUMMARY

Synopsis of Bill

House Bill 416 amends Section 3-7-3 NMSA 1978 to restore the ability of a municipality to annex territory within a class A county with a population of over 300,000 persons without the approval of the board of county commissioners for that county.

Section 1 of this bill amends Section 3-7-3 NMSA 1978 to remove the prohibition against annexation of territory by a municipality when the county in which the municipality is located has a population of more than 300,000.

Section 2 of the bill amends Section 3-7-17.1 NMSA 1978 to require municipalities located in class A counties, which seek to annex territory, to have a minimum population of more than 200,000, and it will remove the requirement that the county in which the municipality is located have a population of less than 300,000.

Section 3 of the bill amends Section 3-19-5 NMSA 1978 to remove the prohibition against a municipality's ability to exercise planning and platting jurisdiction in the extraterritorial area when the county has a population greater than 300,000; provided that, if the municipality has a population of more than 200,000, then the planning and platting jurisdiction may not exceed 5 miles from the municipality's boundary or cross the boundary of another municipality.

Section 4 of the bill amends Section 321-2 NMSA 1978 to permit a municipality to have concurrent zoning authority with the county in which it is located in the three mile area outside the municipality's boundary; provided, that the municipality has a population of 200,000 or greater, and the authority does not extend into the jurisdiction of another municipality.

Section 5 of the bill amends Section 3-21-3.2 NMSA 1978 to provide that in a class A county with a population of more than 300,000, the exercise of concurrent extraterritorial zoning jurisdictions between a municipality and that county would be determined by an extraterritorial land use authority, and provides for the scope and creation of the authority. For a class A county with three hundred thousand people or fewer, the zoning jurisdiction between the municipality and the county may be determined by an "extraterritorial land use authority" pursuant to ordinances adopted by the municipal county governing bodies.

FISCAL IMPLICATIONS

This bill makes no appropriations.

SIGNIFICANT ISSUES

The Regulation and Licensing Department notes that the amendments to this bill do not affect its Construction Industries Division (CID) except to the extent that a municipality, which has a building code enforcement component in its planning and platting program, may exercise its extraterritorial jurisdiction and, thereby, expands its building code enforcement services into areas that are currently serviced by CID. Because there is no way to predict whether or to what extent that may occur, the financial impact of the amendments is unknown.

According to the Department of Finance and Administration, this bill restores the ability of larger municipalities, notably the City of Albuquerque to annex into the municipality, land located in the unincorporated county and not located within another municipality. The bill eliminates the requirement that the board of county commissioners approve annexations occurring in class A Counties. The bill also restores the planning and platting jurisdiction within 5 miles of municipalities with a population of over 200,000.

The New Mexico Association of Counties (NMAC) notes that, the current law is intended to protect the interests of individuals residing outside the Albuquerque municipal boundaries and that there has been no legal challenge to the current law or to annexation decisions made since the law took effect. According to NMAC, the Bernalillo County Commission has approved nearly 90% of the annexation applications.

OTHER SUBSTANTIVE ISSUES

This bill reverses amendments passed in the 2003 regular legislative session to Section 3-7-3 NMSA 1978.