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FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/13

SPONSOR SJC LAST UPDATED _____ HB _____

SHORT TITLE Municipal Disincorporation SB 435/SJCS

ANALYST Boerner

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	DFA Operating Funds

(Parenthesis () Indicate Expenditure Decreases)

Companion to SB 434, Municipal Elected Officer Training; and
SB 438 Municipal Incorporation Requirements

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
Attorney General's Office (AGO)
New Mexico Municipal League (NMML)

SUMMARY

Synopsis of Bill

The Senate Judiciary Committee substitute for Senate Bill 435 amends Section 3-4-1 to allow for alternate avenues to disincorporation other than by petition.

In current statute, a special election on the question of disincorporation may only occur following a resolution by the board of county commissioners of the county in which a municipality is situated to disincorporate (following the petition for such action by one-fourth of the registered voters of the municipality).

This bill expands the allowance for a special election also when 1) the governing body of the municipality adopts a resolution calling for a special election on the question of disincorporation, and 2) when the secretary of the DFA and the Office of the State Auditor request in writing that the board of county commissioners adopt a resolution calling for a special election on the

question of disincorporation.

Further, this bill strikes language in Section 3-4-7 related to the execution of a bond and adds language to state simply that “all assets of the disincorporated municipality shall become the property of the board of county commissioners” to be used for the management of the municipality’s assets and, after all bonded indebtedness has been paid, for the governmental operations and services of the county.

Unlike SB435, this bill has no provision for “automatic disincorporation.”

FISCAL IMPLICATIONS

None noted.

SIGNIFICANT ISSUES

Recent developments at the City of Sunland Park have brought attention to the inability of certain municipal governments to adequately provide services to constituents. This bill attempts to hold municipalities accountable for the use of public funds. When a municipality fails to demonstrate the ability to properly govern itself, the bill gives the state statutory authority to request the board of county commissioners address the issue by way of a resolution calling for special election on the question of disincorporation.

PERFORMANCE IMPLICATIONS

By allowing additional avenues for municipal disincorporation, the bill will help ensure that municipalities that fail to meet minimum standards are disincorporated, thereby allowing their duties to be assumed, and their revenues collected by a county.

ADMINISTRATIVE IMPLICATIONS

The provisions of this bill may impact the workload of the DFA Local Government Division and the State Auditor. However, it is anticipated that the increased workload will be absorbed within the existing operating budget of these two organizations.

TECHNICAL ISSUES

It might be helpful to state in Section 1A(3) under what conditions the DFA or the State Auditor may request that the board of county commissioners adopt a resolution calling for a special election on the question of disincorporating a municipality.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill is not enacted the only method for disincorporating a municipality will remain one-fourth of the registered voters of the municipality petitioning the board of county commissioners to disincorporate the municipality. Even in an inefficiently run municipal government, there may not be the local political will to disincorporate.