F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	02/01/14		
SPONSOR	Wooley	**LAST UPDATED**	02/04/14	**HB**	26
SHORT TITLE	Real Property Sale Assessor Affidavits			**SB**	
				ANALYST	Graeser

REVENUE (dollars in thousands)

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2014	FY2015	FY2016	FY2017	FY2018		
	***	***	***	***		None

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Regulation and Licensing (RLD)
Taxation and Revenue Department, Property Tax Division (TRD/PTD)

SUMMARY

Bill Synopsis

House Bill 26 expands the current requirement that buyers or sellers of residential real property provide affidavits of sales values to the County assessor. The bill proposes extending the current statute to become applicable to sales of all classes of non-residential property except those used for agricultural purposes. This would include vacant land and commercial properties.

FISCAL IMPLICATIONS

No short term fiscal consequences will be noted. Longer term, this proposal has the potential to improve the accuracy of non-residential property assessment.

SIGNIFICANT ISSUES

These affidavits serve as New Mexico's only form of property information and price disclosure. Judging from the significant increase in total residential property tax valuation since 2004 when the disclosure requirement was first enacted, the affidavit requirement has been useful in improving the accuracy of the residential valuation system. If a similar disclosure provision for non-residential property, as proposed in this bill, is enacted, there is every reason to believe that the accuracy of non-residential property valuation will be equally improved.

TRD counters a portion of the above statement and sustains a portion of it:

> The existing sales affidavit program in Section 7-38-12.1 NMSA 1978, though only partially successful, is much better than no disclosure at all. This expansion will provide additional data for assessors which should allow them to improve their valuation results. Solid information regarding market value trends and examples is the basis of equitable assessment and future property tax reform.
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> Full disclosure would result in a more efficient real estate market, more equitable assessment practices, and provide the basis for property tax reform. Some states have found that transparent property markets reduce predatory lending practices, assist in evaluation of natural disasters, improve assessment practices, and increase the ability to understand and plan for property appreciation. When the Taxation and Revenue Department (TRD) last checked, 38 states have full disclosure.
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> Approximately one-third of property tax revenues go to our public schools. It is worth noting that the non-disclosure states are consistently ranked among the lowest in the nation in public school quality according to Education Week and US News and World Report.
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> Agricultural land, though a valuable liquid commodity, remains the most under assessed property type in New Mexico. Even with the 2009 updated regulations, the current special method of valuation (Section 7-36-20 NMSA 1978) has done little to change the sub-market values of agricultural property.

Accurately valuing non-residential property, including vacant land and commercial enterprises, is difficult at best. Three approaches are generally used: (1) depreciated cost; (2) capitalized income; and (3) comparable sales. Of the three, the cost approach is the most accurate in the early period after construction, but gradually loses out to both the second and third approaches as the property ages. A capitalized income approach, if averaged over a business cycle, is quite accurate, but requires a great deal of information and is likely to be out of the scope of effort for most local assessors. The comparable sales approach is quite accurate for residential properties and vacant land, but less so for commercial enterprises that include real property because of a paucity of comparable properties and the difficulties of factoring location into the determination of exactly what properties are comparable. Most assessors have little option but to use a depreciated cost method of valuing commercial properties, although they can use other methods of valuing vacant land. Thus, the provisions of the bill will not be a “magic bullet” to accurately assess commercial properties, but will add critical information to the process and should be supported.

Note that any increase in total non-residential valuation due to this improved information will likely be considered valuation maintenance, and not net new value. Thus, owners of accurately assessed commercial property will find their tax bills decreasing because of yield control reductions created by an increase in valuation maintenance. Under-assessed properties will not experience a proportional increase in tax liabilities because of the under-assessment, again because of yield control.

EFFECTIVE DATE

May 1, 2014 (to be consistent with the annual assessment cycle). Emergency clause, effective on signing.

PERFORMANCE IMPLICATIONS

Because the proposed non-residential property affidavits will apply to some property valued by the central assessment bureau of TRD/PTD, this may improve accuracy of central assessment, and will add value to the bureau's activities. This improvement will not, however, directly affect any performance measures for the bureau, but will assist the Division in meeting its single performance measure. In 2013's HB 2 the only measurable performance outcome is that 92 percent of counties should be in compliance with sales ratio standard of eighty-five percent assessed-value-to-market value. By improving information on the sales values for non-residential properties, the likelihood is that the overall percentage of counties meeting the 85 percent test will actually degrade for a few years until the comparable sales data can be folded into a more complex assessment scheme. At that point, the sales-assessment ratios should improve, as will the total valuations.

ADMINISTRATIVE IMPLICATIONS

TRD notes,

> "… since this is an expansion of existing statute, most of the administrative concerns have been met in compliance with existing legislation. The assessors are required to maintain a statistical and analytical database of affidavit information to aid in their valuation practices. Those assessors who do a good job of maintaining neighborhood and property type data will have an additional source of information to value non-agricultural land and commercial properties. Even those assessors who don't maintain high quality data will have better benchmarks for non-residential valuation than they do now."
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> "There are offsetting administrative impacts in this legislation. While County assessors would have to process more sales data than they are accustomed to, the benefit of extensive sales information will assist them with non-residential valuation and defending protests. TRD/PTD will likely have to verify that County Assessor's Offices are using the new data and that the influence of the new data availability is accounted for in their reappraisal plans. The sales ratio studies mandated by statute (NMSA 7-38-16) will become more comprehensive as statute envisions. More complete market knowledge, particularly for commercial and the non-agricultural land segments, will result in more equitable valuation. The tax base should grow if this statute is implemented correctly, shifting some of the assessment burden from residential taxpayers and resulting in lower millage rates."

TECHNICAL ISSUES

Because property tax issues generally are contentious, the exclusion of agricultural properties from disclosure must be noted.

TRD/PTD offers an observations, "…it is unclear that this legislation could survive a court challenge as it could be argued it creates unequal protection, administrative burdens and competitive disadvantages for other types of property owners within the same non-residential class." The Legislature could consider soliciting an opinion on this issue from TRD's Protest Board's Counsel or other attorney familiar with property tax issues.

TRD/PTD also notes, "… railroad valuations in the State Assessed Bureau (Central Assessment) will gravitate to the assessments of the counties where they have a presence once commercial sales data is available. The Railroad Revitalization and Regulatory Reform Act of 1976, often called the "4R Act," requires railroad property to be assessed at the same percentage of market value as commercial properties in the same taxing jurisdiction."

OTHER SUBSTANTIVE ISSUES

TRD notes, "… Section 7-38-12.1 NMSA 1978 has not been vigorously enforced. Section 7-38-12.2(A) NMSA 1978 makes the intentional failure to file a sales affidavit and knowingly making a false statement on an affidavit a misdemeanor punishable by a fine of up to $1,000. To TRD's knowledge, no one has ever been convicted under this statute."

ALTERNATIVES

Include agricultural properties in the disclosure requirements to avoid unequal treatment problems.

LG/ds:jl