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FISCAL IMPACT REPORT

ORIGINAL DATE 1/20/15
LAST UPDATED 3/9/15 **HB** 67/a HF1 #1

SPONSOR Trujillo, J

SHORT TITLE Property Tax Schedule Change Requests **SB** _____

ANALYST Graeser

REVENUE (dollars in thousands)

Housing Exhibit

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
		>(0)	>(0)	>(0)	Recurring	County, School, City General Funds and debt programs

(Parenthesis () indicate revenue decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)

Department of Finance, Local Government Division (DFA)

Taxation and Revenue Department, Property Tax Division (TRD)

SUMMARY

Synopsis of House Floor Amendment

The House floor amendment #1 allows a county treasurer to correct the tax roll after it is delivered to the treasurer by the assessor in case the assessor made an “obvious” error in either (1) the description of the subject property even if the correction results in a change in the amount of tax due; (2) the data entry value of the value, classification, allocation of value and the application of the two valuation limitations – 7-36-21.2 NMSA 1978 (the 3 percent residential valuation limit) and 7-36-21.3 NMSA 1978 (the low income elderly and disabled property tax valuation freeze). The authority to change the Assessor’s values contained in the tax roll does not include disagreements regarding method (such as the agricultural special method) or a difference in opinion of the value of a property. Because the Treasurer can change obvious errors in the data entry or in application of eligible and qualified exemptions, these grounds for filing action in district court are removed from the bill’s provisions.

Synopsis of Bill

(The AGO provided the following summary of the bill.) “House Bill 67 amends NMSA 1978, Sections 7-38-77 and 7-38-78 to expand the grounds for which a property owner may request a change to a property tax schedule. In addition to a number of non-substantive revisions (such as

the substitution of gender-neutral language), the amendments effect two main changes:

- First, the bill amends current law to allow for changes to a property tax schedule to correct certain “obvious errors,” whereas the current version covers only “obvious clerical errors.” The term “obvious errors” is defined so as to exclude “errors in the method used to determine the valuation for, or a difference of opinion in the value of, the property subject to property taxation.”
- “Second, the bill adds specific grounds for which property owners may request changes to their tax schedules: (1) to correct the description of the property, even if the correction results in a change to the amount due; (2) to correct data entry errors on the part of the county assessor; and (3) to correct the application of exemptions. ~~If a legal action challenging a tax schedule raises either of the latter two of these grounds, it must add the county assessor as a defendant.~~”

TRD notes that a substantial change proposed by the bill may reduce the property tax base after the critical September 1 deadline for calculating mill levies for all of the jurisdictions. DFA will calculate the required mill levies against the property tax base listed on the tax roll. If a County Treasurer can change the tax roll after this date, then the county, city and school district, any special assessment districts and the debt levies will be erroneous and may result in budget shortfalls. Changes after mill rates are in place, particular after the November 1 property tax payments are particularly damaging to small rural districts with particularly tight budgeting.

DFA notes that this bill is endorsed by the Revenue Stabilization and Tax Policy Committee.

There is no effective date of the act – assume June 19, 90 days after adjournment. The provisions of the bill are applicable to taxable years beginning on or after January 1, 2016. There is no sunset date. This would be a permanent change and would require subsequent legislation to reinstate the status quo ante.

FISCAL IMPLICATIONS

DFA notes, “There may be fiscal impacts on local governments if obvious errors result in changes to property taxes actually owed. These amounts cannot be determined at this time. Individual property taxpayers may also be impacted by error corrections if the error corrections result in a change of property taxes...”

LFC staff note, however, because the Treasurer cannot change values attributable to disagreements over valuation method or differences in the value itself, there should be few examples of application of the provisions of this bill. It is only an erroneous description of the subject property that was not discovered by the taxpayer within the March/April protest period that could cause a significant fiscal impact and then, only if the error was not corrected until after rates had been set and tax bills mailed in November.

SIGNIFICANT ISSUES

For the most part – after the House floor amendment -- this bill does not allow an aggrieved taxpayer an alternative method of protesting the determination or denial of an exemption or the application of a favorable valuation method. If the aggrieved taxpayer asserts that the assessor made “an obvious error” in denying, for example, an agricultural exemption, then the treasurer

may not overrule the assessor and adjust the property tax schedule. The treasurer could correct essentially clerical and data entry errors or change the tax roll in case an error was made in property description or the application of a valuation limitation or freeze. The bill does require documentary support of any adjustment.

Under most circumstances, the provisions of this bill will cause little workload to the Assessor or the Treasurer.

TRD/PTD also notes that there are a number of means of protesting property tax valuations:

“The proposed modifications in this legislation impinge on several existing statutes and conventions. These statutes provide remedies with the transparency of documentation and public resolution. ... [A]lternatives for incorrect assessments include:

- Protesting Values (Section 7-38-21 NMSA 1978 through 7-38-27 NMSA 1978)
- Suits for Refund in District Court (7-38-40 NMSA)
- Current Statute (7-38-77 NMSA)
- Changes in the tax roll by DFA (7-38-77.1 NMSA)
- Changes ordered by the Director or District Court (7-38-79 NMSA)
- Provision for refunds and collection of additional taxes resulting from tax roll changes (7-38-80 NMSA) “

SIGNIFICANT ISSUES

Per the AGO, “the amendments do not appear to pose any legal problems, but it should be noted that they expand potential grounds to impose legal liability upon county assessor’s offices.”

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

Minimal for TRD, although the Property Tax Division staff note that any change in the property tax code will possibly be litigated, imposing significant additional costs on the Division.

OTHER SUBSTANTIVE ISSUES

TRD/PTD acknowledges that the Property Tax Division and the various assessors may be deficient in providing public information regarding exemptions.

“Assessor’s Offices need to redouble their public outreach efforts. Taxpayers should be fully informed regarding the Head of Family Exemption (7-37-4 NMSA), Veteran Exemption (7-37-5 NMSA), Disabled Veteran Exemption (7-35-5.1 NMSA), Veterans Organization Exemption (7-37-5.3 NMSA), Valuation Cap (7-36.21.2) and Low Income Senior Valuation Freeze (7-36-21.2).”

“Assessors and Treasurers are encouraged to seek the assistance of the Property Tax Division Director under 7-38-79 NMSA and 7-38-80 when changes in the tax roll are

required after it has been delivered to the Treasurer. The Director has the authority to make those changes.”

LG/je/bb