

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Fidel DATE TYPED 1/31/2004 HB _____

SHORT TITLE County Collection of Franchise Fees SB 231

ANALYST Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	NFI		NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Regulation Commission
Department of Transportation

SUMMARY

Synopsis of Bill

Senate Bill 231 provides more authority for county commissions to impose and collect reasonable franchise fees and compensation for the use of the road and highway infrastructure.

Significant Issues

The New Mexico Department of Transportation reports that because the term “public highways” is not defined, the bill is unclear as to whether it authorizes counties to collect franchise fees and reasonable compensation solely for the use of public highways under the jurisdiction of the county, or whether it also allows counties to collect such fees and compensation for the use of highways under the jurisdiction of the NM Department of Transportation. Under current law, counties do not have the authority to regulate the use of state highways. County of Santa Fe v. Milagro Wireless, LLC, 2001 NMCA, 130 N.M. 771. Furthermore, the NMDOT has the statutory authority to regulate the placement of utilities within its right-of-way. NMSA 1978, §§ 67-3-12(C) (2003) and 67-8-15 (1959).

FISCAL IMPLICATIONS

SB231 does not contain an appropriation. Enactment would not have a fiscal impact on state agencies. Potentially, counties in New Mexico could increase revenues by imposing or increase franchise fees.

RELATIONSHIP

According to the Public Regulation Commission, Section 3-42-1 NMSA grants the authority to municipalities to grant, by ordinance, a franchise for the construction and operation of any public utility; there is no specific language regarding costs. However, a 1978 Attorney General's opinion stated that a public utility franchise may be viewed as a contract between the utility and the county and these contracts may provide for the payment of reasonable expenses incident to the granting and exercise of the franchise.

MFV/lg