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FISCAL IMPACT REPORT

SPONSOR Park DATE TYPED 2/16/05 HB 654

SHORT TITLE Local Government and Property Owner Agreements SB _____

ANALYST Hadwiger

APPROPRIATION (in \$000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB830.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Department of Environment (NMED)

SUMMARY

Synopsis of Bill

House Bill 654 would allow a governing body or a designee of a municipality or county, after a public hearing, to adopt an ordinance entering into a development agreement with a property owner within its jurisdiction or extraterritorial authority. The development agreement could obligate either party to provide services, infrastructure or facilities. HB654 establishes other standards governing the development agreements.

Significant Issues

DFA noted that, currently, developers in New Mexico who are given approval based on a current local comprehensive plan, building codes and zoning still risk having changes required of them at the time of applying for building permits. Most states have updated their statutes to address this situation, short of vesting rights at the time of initial application. HB654 provides development agreements to be finalized based on approval of the local government. It sets development

standards that must be met during the life of the agreement, such standards may include use considerations, densities, building sizes, impact fees and any other financial contributions by the property owner, design standards, affordable housing stipulations, and a build-out period before certain standards are applied. During the term of the development agreement, HB654 prohibits the agreement to be affected by changes to zoning or a new zoning ordinance. Only a serious public health and safety threat or a change in standards not in conflict with the agreement are allowed. The agreement is binding on the parties and their successors, such as new owners of property or new elected officials.

The Department of Environment (NMED) indicated that HB 654 would authorize local governments to exercise greater control of land use and development that could result in greater protection of water quality and drinking-water source areas. Ground-water contamination from liquid waste systems, for example, could be reduced.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates SB830.

TECHNICAL ISSUES

NMED stressed it is important that any development agreements be at least as protective as state environmental laws and regulations.

OTHER SUBSTANTIVE ISSUES

According to DFA, the advantages of a development agreement for the developer are:

1. It is assured that the project may proceed as approved over the term of the agreement;
2. Land use rules, regulations, and policies pursuant to terms of the agreement are frozen on the effective date of the agreement;
3. Protection if the community's attitude changes toward the project or when there are new planning commissioners, county commissioners or councilors;
4. Assistance in securing financing and marketing a project.

The advantages for the local government are:

1. It can impose more regulations than permitted by law;
2. Exactions, impact fees, and mitigation measures can be imposed;
3. Land use conditions not set forth in local laws can be recognized;
4. There is no need for legislative authorization for the exaction; and
6. It is not required to approve the agreement, even after lengthy negotiations.

DH/yr