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FISCAL IMPACT REPORT

ORIGINAL DATE 2/08/06

SPONSOR Taylor LAST UPDATED _____ HB _____

SHORT TITLE Municipal Sports Authority Gross Receipts SB 739

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	None		

(Parenthesis () Indicate Expenditure Decreases)

House Bill 842 duplicates Senate Bill 739.

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
	(Indeterminate)*	(Indeterminate)*	Recurring	General Fund
	Indeterminate	Indeterminate	Recurring	Local Govern- ments

(Parenthesis () Indicate Expenditure Decreases)

* The revenue impact will depend on how many districts are formed. The maximum revenue that could be raised if all local governments in the state were to impose one-sixteenth percent local option tax would be about \$27 million. There would be \$2 million decrease to the general fund due to the hold harmless distribution for food and medical deductions if all local governments imposed one-sixteenth percent. These impacts could increase four-fold if all areas enact the local regional sports authority gross receipts tax up to the maximum of one-fourth of one percent.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY06	FY07	FY08	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		(\$0.1)	(\$0.1)	(\$0.1)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Energy, Minerals, and Natural Resources Department (EMNRD)

New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of Bill

Senate Bill 739 creates the Regional Sports Authority Act, establishes the municipal and county regional sports authority gross receipts tax, and authorizes the creation of and provides powers to regional sports authorities.

The purpose of regional sports authorities, comprised of two or more governmental units, would be to plan for and create athletic and recreational services for the citizens of the authority; to plan, construct, operate and maintain athletic and recreational facilities; and enter into agreements with other political subdivisions, public schools and universities to allow residents of other political entities to use the facilities of the authority.

Each county or municipality that is a member of a regional sports authority is to enact a municipal regional sports authority gross receipts tax or county regional sports authority gross receipts tax. The local option would be imposed in increments of one-sixteenth percent but not to exceed one-fourth percent and is to be used for the management, construction or operation of a regional sports authority or for specific public athletic or recreational projects or services of the authority. The tax must be approved by a majority of the voters.

The local regional sports authority gross receipts tax would be eligible for the hold harmless distribution placed on food and medical deductions. The Taxation and Revenue Department will also receive an administrative fee from the local regional sports authority gross receipts tax.

Public hearings and display of public notices would be made before the regional sports authority would be created. The Governor would also have to approve the regional sports authority. The bill also outlines the powers and duties of the Board for each authority. An authority would be able to sue and be sued, enter into contracts and agreements, set fees for the authority's facilities, pledge revenues to the payment of bonds, acquire personal property and rights of way, accept property and gifts, and provide services outside the boundaries of the authority. It allows the authority to issue revenue bonds, with the proceeds used to finance the purchase, construction, renovation, equipping or furnishing of a sports authority project.

The bill specifically provides that the property and income of the sports authorities and income from their bonds would not be subject to state taxes.

FISCAL IMPLICATIONS

The revenue impact to the state is indeterminate. According to TRD, the actual fiscal impact of the proposal bill is uncertain because it depends on which jurisdictions elect to participate in a regional sports authority. The revenue potential associated with each jurisdiction is presented in the attached table.

There would be a reduction in general fund revenue associated with any new local option approved for the regional sports authorities because of the hold harmless distributions to local governments for any food and medical deduction reported in their jurisdiction.

SIGNIFICANT ISSUES

According to EMNRD, by exempting the revenues of regional sports authorities from state taxation (Section 12) state revenue growth will be reduced. This, in turn, will hamper the ability of the New Mexico Finance Authority, the Department of Cultural Affairs, and the Energy, Minerals and Natural Resources Department (EMNRD) to complete needed capital projects. EMNRD agencies that specifically benefit from government gross receipts taxes (GGRT) are the State Parks Division (SPD) and the Youth Conservation Corps (YCC). With reduced future growth of GGRT revenue, the New Mexico Finance Authority will do fewer projects. Similarly, SPD would have less funding for its capital program, which already faces a current backlog of \$45 million in unfunded capital needs at existing state parks. YCC activities would be similarly hampered.

NMFA also notes that Section 12 will have an effect on the GGRT collection. The language exempts the sports authority from paying GGRT by creating an alternative venue for Municipalities or Counties by having the sports authority hold all sporting events. By law, the NMFA receives 75% of the State's GGRT. Section 7-1-6.38, the statute that directs the distribution of GGRT, states clearly that the State will not take action to diminish the GGRT while bonds are outstanding. Specifically, "The state pledges to and agrees...that the state will not limit, reduce or alter the distribution of the net receipts attributable to the governmental gross receipts tax to the NMFA... until the bonds or notes together with the interest thereon are fully met and discharged. The NMFA (is) authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes." The bond holders have been pledged, through the PPRF program's General Indenture, 75% of the GGRT collections. The NMFA has included the permitted non-impairment pledge on all PPRF bonds issued under the Indenture.

Further, the Non-Impairment Clause of the New Mexico Constitution, Article II, Section 19, expressly prevents the legislature from taking any action that impairs existing contractual relationships. The NMFA has been able to effectively market its bonds in the municipal bond markets because it represented to the bond purchasers that the State would take no action to impair the contractual relationship. Holders of outstanding bonds issued over the past twelve years by the NMFA may file suit to prevent any reallocation of GGRT from the PPRF, in order to protect their contractual rights. A violation of that pledge not only impacts the NMFA's current bonds but also adversely impacts the ability of the NMFA, as well as the State and its political subdivisions, from effectively participating in the municipal bond market.

ADMINISTRATIVE IMPLICATIONS

TRD reports that the legislation will have a major administrative impact. It should be noted, however, that TRD finds only a moderate administrative impact from similar legislation creating Regional Spaceport Districts, obfuscating the actual administrative work imposed by the creation of such districts and local option taxes.

According to TRD, a new local option tax will have to be implemented in the system. Taxpayers will now have to know the codes for their municipality, county and local regional authority. Distributions will have to be changed if the Department sends the distributions received from the local regional sports authority gross receipts tax directly to the authority. Additional compliance and systems resources would be required to ensure all taxpayers are in compliance with the tax. Additional systems resources will be needed to administer the food and medical reporting issue within the district.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 739 duplicates House Bill 842.

TECHNICAL ISSUES

TRD indicates that the bill does not provide the department with authorization to distribute the revenue collected pursuant to the new local option gross receipts taxes. For this purpose, the proposal should contain amendments to the relevant section of Section 7-1-6 NMSA.

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