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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/07

SPONSOR Barela LAST UPDATED \_\_\_\_\_ HB 1160

SHORT TITLE Road Maintenance Responsibility Revocation SB \_\_\_\_\_

ANALYST C. Sanchez

### APPROPRIATION (dollars in thousands)

| Appropriation |      | Recurring<br>or Non-Rec | Fund<br>Affected |
|---------------|------|-------------------------|------------------|
| FY07          | FY08 |                         |                  |
|               | NFI  |                         |                  |
|               |      |                         |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)  
Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

House Bill 1160 amends Section 47-6-5 NMSA 1978, a statutory section within the New Mexico Subdivision Act, Section 47-6-1 et. seq. NMSA 1978, governing dedication for public use. The bill permits a board of county commissioners to revoke the acceptance of maintenance for all or a portion of roads, whenever the board determines that it does not have the financial resources to maintain the roads previously accepted, due to a lack of or slow development of the area served by the roads. HB 1160 requires the board to consider whether the revocation will adversely affect the interests of persons served by the roads, prior to adopting a resolution determining lack of financial resources to maintain roads.

HB 1160 provides that revocation of maintenance by the board shall not constitute abandonment or vacation of public roads or a disposal of real property. The bill provides for appeal to the district court by a person aggrieved by the revocation. The aggrieved person must give notice of appeal to the board within 15 days after adoption of the revocation resolution. HB 1160 requires the filing of a petition in the district court within 30 days after the adoption of the petition. The district court shall hear the matter de novo.

## **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the state would be proportional to the enforcement of this law and appeals to the district court. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## **SIGNIFICANT ISSUES**

Currently, counties accept dedicated roads and maintain these dedicated roads in perpetuity. This bill allows a county to (by resolution) determine that it cannot afford to maintain some roads – particularly when the county has accepted the road expecting tax-generating development along the road. The bill further stipulates that before authorizing revocation, the board of county commissioners shall consider effects on interested persons served by the roads. Such revocation of maintenance shall not constitute:

1. abandonment or vacation of public roads pursuant to Sec. 67-2-6 or 67-5-4 NMSA 1978 or any other law
2. disposal of real property pursuant to Sec. 13-6-2 through 13-6-4 NMSA 1978

AND the revocation may be appealed by an aggrieved person to the district court by:

1. giving notice to county commissioners within 15 days after adoption of the resolution; and
2. filing a petition in district court within 30 days after revocation petition. The district court shall hear the matter de novo and enter judgment in accordance with its findings and conclusions.

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

## **ADMINISTRATIVE IMPLICATIONS**

HB-1160 provides for revocation of maintenance on county roads thus increasing work for county staff.

## **OTHER SUBSTANTIVE ISSUES**

- 1) Section 67-2-2 NMSA 1978 provides that

All public highways, except such as are owned and operated by private corporations and highways within the corporate limits of any incorporated city or town, shall be maintained and kept in repair by the respective counties in which they are located.

If a county is not maintaining the roads are they still public highways? Who, if anyone, is required to maintain the roads, when HB 1160 specifically states that revocation of

maintenance does not constitute abandonment or vacation or a disposal of real property? Why would rights to the road not revert under Section 67-2-6 NMSA 1978? What is the practical effect of the county revoking maintenance of the roads while the rights to the road remain with the county?

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

**POSSIBLE QUESTIONS**

Is this a necessary amendment to current law? Does it really benefit the county?

CS/nt