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FISCAL IMPACT REPORT

SPONSOR	Campos	ORIGINAL DATE	2/2/09	
		LAST UPDATED	3/1/09	HB
SHORT TITLE	Public Improvement District Elections			110/aSPAC/aHFI#1/ aHFI#2
				SB
		ANALYST	Hoffmann/Aubel	

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI*		

(Parenthesis () Indicate Expenditure Decreases)

*See Narrative

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Higher Education Department (HED)

New Mexico Municipal League

No Response

Taxation and Revenue Department (TRD)

Association of Counties

Association of County Clerks

No Response for Senate Floor Amendments

SUMMARY

Synopsis of SFI#2 Amendment

The Senate Floor Amendment #2 for Senate Bill 110/aSPAC strikes lines 1 through 5 on page 10 that allows a governing body to either resume governance of the district as its board or hold an election of new directors. In its place the amendment limits the option of the governing body to only hold an election of new directors after the appointed board's initial term.

Synopsis of SFI#1 Amendment

The Senate Floor Amendment #1 for Senate Bill 110/aSPAC strikes the word “resident” in two places to leave only “qualified electors and owners” (which may or may not be residents), as follows:

“vote of the [residents] ~~resident~~ qualified electors and owners.”

Synopsis of SPAC Amendment

The Senate Public Affairs Committee Amendment would change the way that votes are cast by granting owners the number of votes or portions of votes equal to the number of acres or portions of acres rounded upwards to the nearest fifth of an acre.

The amendment also provides that at the end of the appointed director’s terms, the governing body shall hold an election of new directors by majority vote of the resident qualified electors and owners.

FISCAL IMPLICATIONS

No significant fiscal implications.

SIGNIFICANT ISSUES

This amendment changes the manner in which votes will be cast in public improvement district elections as well as provide for a mandatory election of new officers at the expiration of the terms of the appointed directors instead of permitting the governing body to resume governance of the board.

Synopsis of Original Bill

Senate Bill 110 amends the Public Improvement District Act (Section 5-11-2 NMSA 1978) to provide for owners and residents to elect a district board and to provide for a limitation of property tax levies to pay debt service on bonds. The bill proposes the following changes.

Section 5-11-9 C. NMSA is amended to change existing law to include "resident qualified electors and owners." Currently non-resident owners of property in Public Improvement Districts are not allowed to vote on Election of a District Board.

The Sections below amend the Act to require the public improvement districts to follow laws currently in place assuring fair voting practices.

Section 5-11-2 L. (7) NMSA 1978 is amended so that the definition of "owner" includes the "manager or member of a limited liability company," which allows a limited liability company (LLC) to have the same rights as persons, administrators or executors, guardians, corporations and partnerships as defined in the prior paragraphs.

The bill amends section 5-11-19 A. NMSA 1978 to require general obligation bond elections to include "authorization for a property tax levy, including limitations on the levy, of a property tax

to pay debt service on bonds." By allowing the election to determine details of the levy, taxpayers would have the capability to vote on limits of the levy, such as to the amount and duration of the burden it places on the taxpayer.

Section 5-11-26 NMSA 1978 adds to existing law an amendment to require any issuance of bonds by any district to comply with requirements of the "Public Securities Limitation of Action Act." Compliance with the Public Securities Limitation of Action Act shall require the Public Improvement District to follow the current rules that apply to communities and municipalities.

FISCAL IMPLICATIONS

Senate Bill 110 makes no appropriations.

SIGNIFICANT ISSUES

The PED notes that the only change in SB110 that impacts higher education institutions is in section 3-A. It lists the criteria that would be included in the question authorizing districts to issue general obligation bonds for funding required to support any infrastructure project. The question would need to include authorization for a levy, including a limitation on the levy, of a property tax to pay debt service on the bonds. Higher education institutions can issue local general obligation bonds to support capital projects.

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