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## F I S C A L   I M P A C T   R E P O R T

SPONSOR Ortiz y Pino ORIGINAL DATE 01/31/11 LAST UPDATED 02/10/11 HB \_\_\_\_\_  
SHORT TITLE Municipal & County Affordable Housing Act SB 177/aSCORC  
ANALYST Golebiewski

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	*	*	Recurring	General Fund
	*	*	Recurring	County & Municipal Affordable Housing Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\* Please see "Fiscal Implications" Section

## SOURCES OF INFORMATION

LFC Files

### Responses Received From

New Mexico Municipal League

New Mexico RETA

Indian Affairs Department

Taxation and Revenue Department

## SUMMARY

### **Summary of SCORC Amendments**

The amendments proposed by the *Senate Corporations and Transportation Committee* to Senate Bill 177 limit the Municipal and County Affordable Housing Act to class A counties with net taxable values within the following ranges: \$6 billion and \$14 billion. Based on FY10 net taxable values, this would limit the act to communities within Bernalillo and Santa Fe counties.

### **Fiscal Implications of SCORC Amendments**

The amendments to Senate Bill 177 limit the eligible population to residents of Bernalillo and Santa Fe Counties. If eligible municipalities representing 50% of those counties' net taxable value pass an additional 2 mill levy, the state would collect approximately \$20 million per year. Low income housing grants of \$20 million would then be provided and the spending related to the development and rental of low-income housing would bring additional revenue to the state.

## **Summary of Original Bill**

Senate Bill 177 creates the Municipal and County Affordable Housing Act, which delineates parameters by which municipalities and counties can develop and fund affordable housing programs in New Mexico, as authorized under Article IX of the Constitution of the State of New Mexico. The Municipal and County Affordable Housing Act provides municipalities and counties the authority to impose a property tax at a rate not to exceed \$2.00 per \$1,000 of the net taxable value of property. The imposition of a property tax is contingent upon a majority election of qualified voters. If passed, property tax revenue is allocated to a fund in a municipal or county treasury that is solely designated for payment relating to the Housing Assistance Grants, from which eligible entities, as described in Senate Bill 177, will be granted funding. The bill proposes that the Municipal and County Affordable Housing Act take effect immediately.

## **FISCAL IMPLICATIONS**

Fiscal impacts depend on whether local voters adopt the levies authorized in the Act. Net taxable value in New Mexico for property tax year 2010 is approximately \$50.5 billion. The amendments to Senate Bill 177 limit the eligible population to residents of Bernalillo and Santa Fe Counties. If eligible counties representing 50% of those counties' net taxable value pass an additional 2 mill levy, the relevant counties would collect an aggregate amount of \$20 million per year. Low income housing grants of \$20 million would then be provided, and the spending related to the development and rental of low-income housing would bring additional revenue to the state, mostly in the form of gross receipts and personal income taxes. Without knowing a priori the number of communities likely to pass this mill levy and the amount of economic activity likely to be attracted by these grants, estimates of the aforementioned revenues are not presented, as they would be incredibly uncertain.

## **SIGNIFICANT ISSUES**

IAD:

In order to ensure the appropriate enactment and implementation of the Housing Assistance Grants administered by municipalities or counties, SB177 requires an ordinance to include the following (as outlined in Section 6-27-8 NMSA 1978 of the Affordable Housing Act):

- Procedures to determine that qualifying grantees are adhering to the requirements of the Municipal and County Affordable Housing Act and rules promulgated pursuant to the Act at the time of the award and through the term of the grant;
- A requirement for long-term affordability of a project in order for a project to not be sold immediately after completion and eliminated from the affordable housing market causing a profit for the qualifying grantee;
- A requirement imposing a contractual obligation to the qualifying grantee in order to ensure that housing units of a project are occupied by low- or moderate-income households;
- Provisions for adequate security against the loss of public funds or property in the event that a qualifying grantee abandons or otherwise fails to complete a project;
- A requirement for review and approval of a housing grant project budget by the municipality or county before any expenditure of grant funds;

- A requirement, unless the period is approved for an extension, mandating a municipality or county to act upon an application within 45 days of the date of receipt of an application that the municipality or county deems to be complete and, if not acted upon, the application is deemed approved;
- A requirement that conditions the approval of a grant to be in compliance with all applicable State and local laws, rules, and ordinances;
- Provisions defining the term "low and moderate income" and outline requirements for verification of income levels;
- Provisions providing preference for awarding Housing Assistance Grants to individual grantees with a primary residency in New Mexico or non-individual qualifying grantees with a majority of employees located in New Mexico; and
- A requirement mandating a municipality or county to enter into a contract with a qualifying grantee that is consistent with the Municipal and County Affordable Housing Act, which includes remedies and default provisions in the event of the unsatisfactory performance by the qualifying grantee.

Municipal League:

Many municipalities and some counties may be unable to reasonably implement an affordable housing program under this legislation because the funds generated by a tax not to exceed \$2.00 per \$1,000 of net taxable value will not be great enough to make meaningful grants to applicants.

## **ADMINISTRATIVE IMPLICATIONS**

It can be presumed that additional administrative burden would result from Senate Bill 177. Minimally, a separate fund would be created, grant applications would need to be reviewed, and individuals would need to ensure the proper use of funds and completion of projects. Senate Bill 177 does not specify that the property tax collected pursuant to the Municipal and County Affordable Housing Act would cover these additional administrative costs. Therefore, the state general fund and/or local governments' funds would support the administration of the program.

## **TECHNICAL ISSUES**

Municipal League:

There is an issue with a county adopting an ordinance and imposing the property tax rate within a municipality's boundaries. If the municipality has also adopted an ordinance and imposed the property tax rate within its boundaries the citizens of a municipality will pay up to \$4.00 per \$1,000 of net taxable value for both affordable housing programs. Perhaps the legislation should provide that if a municipality has an affordable housing program under the act that any county program would impose the tax only on property located outside the municipal boundaries.

The legislation leaves it to the local government to determine eligibility for individual grantees. While the League supports local autonomy perhaps it would be wise to set some uniform measure for individual eligibility such as an income threshold that is in some way related to a percentage of median household or per capita income in the municipality or county.

TRD:

This bill defines “housing assistance grant” to include supportive services for indigent persons who are homeless or at a high risk of homelessness. Although the provision of such services is outside the scope of Subsections E and F of Art. IX, Sec. 14 of the New Mexico Constitution, the provision of those services is permitted by Subsection A of the same section.

This bill appears to meet the requirements enumerated in Art. IX, Sec. 14, Subsection F of the New Mexico Constitution with respect to enabling legislation for the provision of affordable housing by a county or municipality. The requirements include: (1) a definition of affordable housing; (2) establishment of eligibility criteria for recipients; (3) provisions to ensure successful completion of affordable housing projects; and (4) requirements for formal approval by ordinance for housing assistance grants.

Section 7, Subsection E of this bill contains provisions to require that property taxes imposed pursuant to the Municipal and County Affordable Housing Act comply with yield control property tax rate limitations as set forth by Section 7-37-7.1 NMSA 1978.

JAG/svb:bym