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

ORIGINAL DATE 02/15/11
SPONSOR Fischmann **LAST UPDATED** **HB**

SHORT TITLE Tax Increment District Requirements **SB** 243

ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	**FY12**	**FY13**		
	$0.0	$0.0		

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 243 amends the Tax Increment for Development Act to limit district powers, specifically for tax increment development projects funded in whole or in part by gross receipts tax increments attributable to the imposition of the state gross receipts tax. These projects shall: 1) be permitted only in a district containing at least twenty private property owners having no corporate, family or other direct business affiliation, other than an interest in improving the district, and in which each property owner has an equal vote. State gross receipts tax increments shall be terminated whenever the number of unaffiliated property owners drops below twenty; 2) be limited to redevelopment of public improvements and improvement of existing infrastructure for the purpose of urban renewal; 3) fund only those improvements that will remain in the ownership of a local government or the state; 4) be approved by the State Board of Finance; and 5) be specifically authorized by law.

This bill also amends the bonding authority under Section 5-15-20(B) NMSA 1978 to require property owners within a district to contribute a minimum of 40% of the initial public infrastructure costs which is an increase from 20%.

Senate Bill 243 also provides a temporary provision that the provisions of this act do not apply to expenditure of bond proceeds from bonds issued prior to July 1, 2011.

FISCAL IMPLICATIONS

TRD:

> This bill will have no direct revenue impact. However, it may limit how the state General Fund's gross receipts tax revenue is diverted and distributed to tax increment development districts in the future.

SIGNIFICANT ISSUES

TRD:

> Tax increment development districts add complexity to New Mexico's tax system. This bill may prevent some future tax increment development districts from adding complexity.

The tax policy implication of the proposed modification to the Tax Increment of Development Act is to fund brown-field redevelopment, as opposed to green-field projects. This may address concerns that only private developers benefit from the subsidies provided in the form of tax increment districts, whereas many would argue that TIDDs should benefit the public through the redevelopment of existing infrastructure.

ADMINISTRATIVE IMPLICATIONS

TRD:

> The bill does not specify what should prompt an investigation as to whether the number of "unaffiliated property owners" drops below twenty, or who is responsible for terminating the state gross receipts tax increments. It is recommended that the bill specify a mechanism by which a taxing entity or the State Board of Finance would be responsible for reviewing whether the requisite number of unaffiliated property owners continues to exist in a district. The bill should be further amended to provide for sufficient advance notice to the Taxation and Revenue Department of the date gross receipts tax increments are terminated.
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> This bill may reduce future administrative cost to the state and compliance costs on New Mexico taxpayers. Properly calculating and distributing the amount of local government or State gross receipts tax revenue to be diverted to tax increment development districts has a very high administrative impact on the Department.
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> The compliance burden for New Mexico taxpayers is also increased by new tax increment development districts. New Mexico businesses may have trouble determining which location code they should use. For example the number of location codes within Bernalillo County has more than doubled because of new tax increment development districts. Taxpayers in Bernalillo County must now choose between 25 different location codes.

To the extent that this bill slows down the proliferation of new tax increment development districts, it will reduce administrative and compliance costs of New Mexico's tax system.

TECHNICAL ISSUES

TRD:

SB-243 would likely require the State Board of Finance to consider whether the additional conditions set forth by Subsection E in Section 1 of the bill, would be met. It is recommended that such additional conditions also be included as an amendment to Subsection F of Section 5-15-15 NMSA 1978, which pertains specifically to the required determinations by the Board.

OTHER SUBSTANTIVE ISSUES

TRD:

Since "urban renewal" is not defined, it is not clear whether such a project must exist within the boundaries of a major metropolitan area.

JAG/svb

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc