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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/13  
 SPONSOR Martinez, R. LAST UPDATED 02/09/13 HB 37/aHJC/aHTRC  
 SHORT TITLE Annual Delinquent Property Tax Sales SB \_\_\_\_\_  
 ANALYST Boerner

### REVENUE (dollars in thousands)

| Estimated Revenue |            |            | Recurring<br>or<br>Nonrecurring | Fund<br>Affected     |
|-------------------|------------|------------|---------------------------------|----------------------|
| FY13              | FY14       | FY15       |                                 |                      |
| \$0.0             | Negligible | Negligible | Recurring                       | Local Governments**  |
| \$0.0             | Minimal    | Minimal    | Recurring                       | Taxation and Revenue |

(Parenthesis ( ) Indicate Revenue Decreases)

\*\* The monies received by the TRD from the sale of real property for delinquent property taxes is distributed among the TRD and local governments. A portion of the monies, equal to the amount of delinquent taxes is remitted by the department to the appropriate local governments. Costs, penalties and interest amounts are retained by the TRD. Conducting sales of delinquent properties would alter the timing of the revenues by expediting the collection of the delinquent taxes, but does not alter the amount the revenues to the local governments.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of HTRC Amendment

1. The House Taxation and Revenue Committee (HTRC) amendment strikes House Judiciary Committee amendment.
2. The HTRC adds language to state that beginning January 2014 the TRD will annually offer for sale at least one real property on each county's property tax delinquent list (subject to Subsection A), *unless the TRD property tax division and the county treasurer enter into a written agreement to postpone the delinquent property tax sale.*

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 37 revises Subsection B on page 2 to state that beginning in calendar 2014 the TRD shall annually offer for sale property in each county in which a property is listed on the county's delinquent tax property list *that otherwise meets the provision of Subsection A.*

Synopsis of Original Bill

This bill would require the Property Tax Division (PTD) of the Taxation and Revenue Department (TRD) to conduct at least one sale for delinquent property taxes in each county in which delinquent properties are listed in each calendar year beginning in 2014.

**FISCAL IMPLICATIONS**

No other fiscal implications noted.

**SIGNIFICANT ISSUES**

The HTRC amendment appears to address most of reasons cited by the TRD as why the department may not be able to prepare for or conduct a sale (see bulleted list below) in that the issue could be resolved with a written agreement between the TRD-PTD and the county treasurer.

- Treasurer, assessor or clerk may be going through a system change or having system difficulties. Therefore, PTD doesn't have access to the records necessary to pursue collection or hold a tax sale.
- Failure of a county to submit a delinquency list, excessive delay or lack of current data
- Poor record management in the treasurers, assessors or clerk's offices which prevents PTD from being able to acquire accurate and valid data
- When we contact county treasurers to begin collections or prepare for a sale they may not allow us to come to their county due to:
  - Their preparation of tax bills (October/March)
  - Tax season (November-December/April – May)
  - No space available for our examiners
  - New treasurer entering the office and not yet familiar or prepared for us to begin collections
  - The treasurer does not want the examiner PTD has assigned to work in their the county
  - The treasurer has no legitimate reason other than they do not want us in their county when we contact them
- Unforeseen circumstances that arise as a result of improper actions in the treasurer's office
  - embezzlement
  - destruction of records
  - failure of the treasurer to comply with division directives and statutory requirements
- All accounts listed for sale could be removed for the following reasons:
  - Paid
  - Installment Agreement

- Bankruptcy
  - Litigation
  - Assessment problems, particularly double assessments
  - Failure of a delinquent taxpayer to claim their certified notification (refusal/unclaimed)
  - Failure to notify interested party
  - Hardship
  - Newspaper's failure to advertise a particular account
- Many accounts may be unmarketable. Common reasons for this are that zoning changes have made the parcels unmarketable or promised infrastructure leading to the properties was never delivered.
  - Newspapers may improperly publish the sale resulting in a cancellation of the sale

Delinquency lists are produced in July of each year. Sales can't proceed from that list until the beginning of the following calendar year. The PTD assumes the effect of this legislation is predicated on the timely delivery of the delinquency lists by county treasurers. It isn't specified in the legislation.

## **OTHER ISSUES**

The TRD points out that the relationship between sales and collections can't be quantified; it is incorrect to draw a linear relationship between the two. Of the 13 thousand delinquent property accounts resolved in FY12, only 1 thousand (less than 10 percent) were resolved through sale or the threat of sale. Only 381 accounts were actually sold (i.e., less than 3 percent of delinquent properties) resulting in approximately \$200 thousand in base property tax collections of the \$11.3 million total collections returned to the counties (i.e., less than 2 percent of total collections). The TRD management states that it is aware that it must hold delinquent property tax sales to support the credibility of their collection efforts; however, forcing sales could be more painstaking due to the work that is necessary for setting up the sales when other potentially productive collection options might be available.

## **PERFORMANCE IMPLICATIONS**

Minimal to the TRD.

## **ADMINISTRATIVE & COMPLIANCE IMPLICATIONS**

The TRD finds there would be minimal administrative or compliance impact. The PTD established the additional goal of having a sale in each of New Mexico's counties each year due to a policy shift emphasizing collections over sales in mid 2011. Holding sales in all thirty-three counties poses no additional strain on the administrative infrastructure for the TRD, but the mandatory requirement may not be consistent with efficient management decisions in administration of the PTD.

CEB/svb