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FISCAL IMPACT REPORT

SHORT TITL	E County Receipt &	Disposal Of Public Prop		SB	Jorgensen
SHORT TITI	E County Receipt &	Disposal Of Public Pror	SB		
SPONSOR	Gallegos	ORIGINAL DATE LAST UPDATED		НВ	264

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Finance and Administration (DFA)
General Services Department (GSD)
New Mexico Counties

SUMMARY

Synopsis of Bill

House Bill 264 (HB264) exempts counties from the provisions of Chapter 13, Article 6, which govern the disposal of public property. HB264 exempts counties from Department of Finance and Administration and Board of Finance oversight of the sale or lease of public property. This proposal would treat counties in the same manner as municipalities, as municipalities are currently exempt from this requirement of Article 13-6 NMSA 1978.

FISCAL IMPLICATIONS

Because HB264 does not affect state agencies nor impose additional requirements on other governmental agencies, it will have no fiscal impact.

SIGNIFICANT ISSUES

New Mexico counties notes that: "When selling or leasing property, municipalities and counties are required to obtain appraisals to determine fair market value. The additional time the public must wait for a county property sale or lease and the additional time that county and state officials must spend processing these transactions is unnecessary and burdensome. The proposal would also make it explicitly clear that

House Bill 264 – Page 2

counties could receive donations of public property from state or other agencies."

DFA notes:

The bill exempts counties from established disposal processes set out by law. Such steps are established to ensure accountability and compliance with the law, and specifically the anti-donation clause of the State Constitution. DFA's Local Government Division (LGD) and Board of Finance (BOF) provide oversight to ensure public property is not disposed of below fair market value, thus violating that clause and resulting in local entities not receiving fair compensation for public property. Beyond such accountability and compliance, however, local entities benefit greatly from such oversight. For example, BOF conducts detailed reviews of sale and lease contracts and frequently identifies other legal concerns of real property transactions, such as future liabilities, contractual compliance concerns, and indemnification clause issues, including the obtainment of required local governing body approvals. The BOF guides the local entities in revising contracts so they are not subject to legal ambiguities and future challenges.

While additional oversight takes time, review and approval by LGD and BOF occurs quickly, within 21 to 30 days. Requirements are laid out in advance through checklists. And, while municipalities are not currently required to seek the same approvals as counties, they are required to seek approval of intergovernmental transactions through LGD. The Legislature may want to consider imposing equivalent requirements across local public bodies.

GSD Reports:

The bill exempts counties from the definition of "local public bodies" which would exempt them from established disposal processes set out by law requiring them to follow specific steps to ensure accountability. These include designating a disposal committee to approve and oversee the disposition of the property; providing at least thirty days' notice of the official disposition to the State Auditor's Office; retaining a copy of the notice in the official record; and obtaining prior approval from the Local Government Division of the Department of Finance or Administration or the State Board of Finance. The bill would also remove any limitation on how and to whom the county could dispose of the property.

ALTERNATIVES

DFA suggests that Section 13-6-2.1 NMSA 1978 could be amended to increase the threshold at which DFA oversight is required. The current threshold for BOF approval is \$25 thousand. This could easily be increased to a larger amount, as the amount has not been adjusted for inflation since it was established. The current threshold for LGD approval is \$5,000 and could possibly be increased to \$25,000. Such an alternative would ensure oversight and accountability for dispositions for monetarily significant public properties while eliminating unnecessary burden of smaller property transactions.