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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/10  
 LAST UPDATED 02/09/10    **HB** \_\_\_\_\_

SPONSOR    SJC \_\_\_\_\_

SHORT TITLE    Notice to Land Grants of Nearby Surveys    **SB** 41/SJCS \_\_\_\_\_

ANALYST    Escudero \_\_\_\_\_

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Energy, Minerals and Natural Resources (EMNR)  
 State Parks Division (SPD)  
 Department of Finance and Administration (DFA)  
 Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

The Senate Judiciary Committee substitute for Senate Bill 41 (SB 41) requires that if a boundary survey of property is conducted within or bordering the common lands of a community land grant governed and operating pursuant to Chapter 49, Article 6,7,8 or 10 NMSA 1978 the surveyor shall give written notice by certified mail to the board of trustees or commissioners of the affected land grant prior to recording the boundary survey or plat with the county clerk. The notice shall indicate where and when the boundary survey will be or was conducted.

The board of trustees or commissioners of a community land grant shall record with the county clerk of the county within which the land grant is located the address and contact information of the appropriate officer of the board or commission to which notice shall be given. Any change in address or contact information shall be updated and recorded as soon as practicable to ensure that timely notice may be accomplished by certified mail.

Proof of the notification by having the tracking number of the certified mailing and the address of the land grant as recorded with county along with the survey or boundary survey plat. If proof or notification is not filed, the survey or boundary survey will be considered not valid.

## **FISCAL IMPLICATIONS**

The bill has no fiscal implications.

## **SIGNIFICANT ISSUES**

As stated by Energy, Minerals and Natural Resources, several New Mexico state parks are located within or bordering land grants. Any surveys that the State Parks Division (SPD) may conduct would be subject to SB 41, if enacted. Private surveyors under contract to SPD would have to comply directly with SB 41, if enacted.

Department of Finance and Administration indicated as follows:

A new section is added to the Engineering and Surveying Practice Act, Chapter 61, Article 23 NMSA 1978. At least two weeks before a survey of property within or bordering a land grant governed and operating pursuant to Chapter 49, Article 6, 7, 8 or 10 NMSA 1978 is conducted, the surveyor shall give written notice by certified mail to the board of trustees of the affected land grant of when and where the survey will take place.

Notice of survey by certified mail is specific to certain land grants. Article 6-Las Vegas land grant, Article 7-Manzano land grant, Article 8-Nuestra Senora del Rosario, San Fernando y Santiago land grant. Article 8 is also known as the Truchas land grant. Article 10-Tecolote land grant.

Proof of notice from the surveyor by certified mail shall also be filed with the county clerk. This notice should be done when the county clerk accepts for filing a survey or boundary survey plat in accordance with Section 61-23-28.2 NMSA 1978 (Surveying; record of survey. (Repealed effective July 1, 2012.)). If the survey or boundary survey plat that is filed with the county clerk is filed without the proof of notice, the filing or recording of the survey or plat shall not be considered valid.

This is significant because potentially there may be additional costs associated with the survey in order to notify the land grant owners. The bill also is an attempt to make sure that boards of trustees of certain community land grants are notified and kept informed of surveys before they are started. This gives all parties involved a chance to address any issues they may have

## **ADMINISTRATIVE IMPLICATIONS**

State Parks Division will have to ensure that any surveyors under contract to State Parks Division comply with the notice and filing requirements of SB 41. This will add a small burden to the administrative work involved with contracting for surveys.

## **TECHNICAL ISSUES**

Department of Finance and Administration indicated as follows:

Manzano grant has commissioners instead of trustees. Line 12 the words "OR COMMISSIONERS" should be added after "TRUSTEES". At line 24 the words "or commissioners" should be added right after "trustees".

Attorney General's Office indicated as follows:

The language on page 1 line 8 contains a typographical error. It states: "For the Land Grand Committee," which is intended to mean "Land Grant" Committee. We observe that not all land grants are included in this bill and assume that the ones selected were selected for certain reasons that are not known to us. We note that the Manzano Land Grant, at Article 7, is governed by a body of elected commissioners. There is no "board of trustees" as such.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Department of Finance and Administration indicated as follows:

The consequences of not enacting this legislation would continue to allow surveys to be conducted on lands within or bordering certain community land grants without notifying land grant owners. The surveys or boundary survey plats would also be filed with the county clerks office without notice to the community land grants. This could potentially result in litigation because of land disputes between the community land grant owners and the other property owners. It is important to understand that in a lot of cases the adjacent property owners include state agencies such as the state forest service, or federal agencies such BLM or the National Park Service

As stated by Energy, Minerals and Natural Resources, no notification of surveys within or bordering land grants will need to be submitted to the Board of Trustees of the land grant.

PME/svb:mew