

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/10
 LAST UPDATED 02/10/10 **HB** _____

SPONSOR Eichenberg

SHORT TITLE Property Tax Valuation Limit on Some Homes **SB** 46/aSJC

ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	NFI	(\$6,000.0)	Recurring	General Obligation Bond Capacity
	(Indeterminate, probably small)	(Indeterminate, probably small)	Recurring	Certain property tax beneficiaries

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 46 would limit the 3 percent value limit on annual increases in residential property to owner-occupied properties.

Synopsis of Bill

Senate Bill 46 would limit the increase in property tax assessed value of residential property when a change of ownership occurs. Rather than being assessed at its current and correct value assessed value would equal the lesser of the market value or 103 percent of the assessed value in the preceding tax year. The provisions would apply to property changing ownership in property tax years 2009 and subsequent.

FISCAL IMPLICATIONS

Fiscal impacts are only approximate as the necessary information to calculate precise estimates is not available. LFC estimates that the provisions would reduce the rate of growth of residential

taxable value statewide by perhaps 0.5 percent to 1.0 percent. State General Obligation Bond Capacity is equal to 1% of statewide net taxable value, and therefore would be reduced by the proposal. Potential fiscal impacts on other property tax beneficiaries are limited because any reduction in taxable value would be offset to a large degree by increases in property tax rates both for operating and debt service levies. Thus, rather than a revenue decrease, the result would be a shift of tax liabilities from taxpayers purchasing houses to other taxpayers.

DFA reports that some governmental entities have imposed the maximum operating levy authorized by law and their current imposed rate after yield control is also at or near the statutory maximum. These entities would see a decline in their operating revenue if their net taxable value decreases, as could occur under the proposal. Based on the 2009 Certification of Tax Rates, eleven hospitals, two watersheds, DeBaca County, Hidalgo County, City of Vaughn and City of Las Vegas are at the maximum mill rate allowed and remain at or near the same rate after yield control is applied. In addition, eighteen soil and water conservation districts that are not subject to yield control and are imposing the maximum rate allowed by law may see lower operating revenue.

SIGNIFICANT ISSUES

The proposal addresses the “property tax lightning” problem. The lightning refers to fact that, whereas property assessments can increase by no more than 3 percent per year while a property is retained by the same owner, assessed value increases to market value when the property is sold. In addition to creating an unfair system, economic research supports the conclusion that such “acquisition value” property tax systems reduce the rate of turnover of properties, creating inefficiency in the housing market.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bills 132 and 263 and Senate Bills 45, 139, 160 and 217 amend the same section of statute and are therefore in conflict.

OTHER SUBSTANTIVE ISSUES

Two judges in the Second District Court have ruled that the present law limitation on assessed value increases in section 7-36-21.2 is unconstitutional because it creates a distinction between taxpayers based on when they purchased their house which is not explicitly authorized in the constitution. The 1998 amendment that created subsection B of Article VIII, Section 1 authorizes the legislature to limit annual increases in property value based on “owner occupancy, age or income.” According to TRD, the bill would make the provisions of the property tax code consistent with the second district court rulings.

TECHNICAL ISSUES

TRD: It may be appropriate to delete Subsection C of Section 7-36-21.2 NMSA 1978 and re-label the following paragraphs accordingly, because the material cited is no longer applicable.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Consequences of legislative inaction on the residential property value issue are unclear but potentially significant. At a minimum the state faces significant uncertainty entering the 2010 property tax year with numerous protests and refund claims already being filed on the grounds that the present law 3 percent value limitation is unconstitutional. Possible outcomes include a finding by higher courts that the entire section 7-36-21.2 is unconstitutional. Such an outcome would appear to require that assessors bring all properties to current and correct, increasing values for more than half of the property owners in the state.

TC/svb:mew

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