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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/10

SPONSOR Payne **LAST UPDATED** _____ **HB** _____

SHORT TITLE Limit Taxes on Real Property, CA **SJR** 11

ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
NFI	NFI	(Indeterminate)	Recurring	Certain Property Tax Recipients

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 11 proposes to amend the constitution to limit the total annual tax levy for all purposes including public debt on any real property to no more than 1 percent of the current and correct value of the property.

FISCAL IMPLICATIONS

Potential fiscal impacts if the proposed constitutional amendment were approved are uncertain and would vary significantly by location and by property. Impacts depend on tax rates currently imposed – which vary from location to location -- and on the relationship between taxable value and current and correct value – which can vary from property to property. The constitution currently limits all taxable value to one-third of assessed value. Thus, as described in the notes from TRD below, for properties with assessed value close to current and correct, the new limit would lower taxes if their current mill levy exceeds 30 mills. However, many residential properties are valued at less than current and correct because of the 3 percent limit on annual value growth. Owners of these properties would most likely not see a tax decrease unless their levy is well above 30 mills. Non-residential properties tend to face higher mill levies – because the yield control formula is applied separately to residential and non-residential property. Thus, non-residential properties are more likely to see a tax cut under the provisions.

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LFC analysis of residential property tax rates in effect as of 2007 indicate that – on a county-wide average basis – Bernalillo County, with an average of 37 mills, was the only county with a combined levy over 30 mills. Thus, property owners of recently-purchased property in Bernalillo County – whose values are closer to current and correct -- would potentially see some tax savings under the bill. Total savings – and therefore the fiscal impacts – are difficult to estimate, but it appears the proposed limit would not have a major impact on existing residential property tax revenues, although it might limit their growth in the future.

Non-residential levies in Bernalillo County averaged 44 mills as of tax year 2007. Information is not available on how close non-residential properties are to current and correct values. Although a precise estimate is not possible, a 10 mill reduction in non-residential levies in Bernalillo County could reduce revenue by about \$40 million per year. For comparison purposes, total property tax revenue in Bernalillo County in 2009 was \$560 million, so the above estimate would constitute about a 7 percent reduction. It is unclear from the proposed constitutional amendment how the limited revenue would be distributed among property tax recipients.

These calculations are countywide averages, as noted by TRD below, there might be impacts in some smaller jurisdictions that are not evident from the countywide average calculations.

TRD notes:

The one-percent limitation stipulated in the proposed amendment is equivalent to a limit of 30 mills, or \$30 per \$1,000 in net taxable value.¹ Hence the proposed amendment would limit the sum of property tax rates imposed for all purposes to 30 mills. Rates in many jurisdictions currently substantially exceed 30 mills. The Albuquerque residential and nonresidential rates in Tax Year 2009, for example, total 39.412 mills and 45.424 mills respectively -- excluding rates imposed by the Middle Rio Grande Conservancy District and several other tax districts. How the enabling legislation from the proposed amendment would reduce the Albuquerque rates to 30 mills is uncertain. Reducing many of the rates would likely violate present law.

The amendment proposed by SJR-11 could easily reduce rates that are currently imposed in Albuquerque by one-third, with similar losses in revenues to some property tax recipients. In the 2009 tax year, rates excluding special district levies exceeded 30 mills in 42 of the approximately 230 locations shown on rate certificates issued by the New Mexico Department of Finance and Administration. Residential rates in Albuquerque, Rio Rancho, Grants, Milan, Sunland Park, Corrales and Sunland Park all exceeded 30 mills. Rates imposed on traditional non-residential properties exceeded 30 mills in 32 tax districts, and rates on oil and natural gas production and production equipment exceeded 30 mills in three tax districts. Revenue reductions in most of these districts would result from reducing the maximum mill levy to one percent of market value.

¹ This issue is perhaps best understood by example. Suppose a property is assessed at \$100,000 and the owner claims no exemptions. The property's taxable value is the same as its net taxable value because no exemptions are claimed and totals $\$100,000/3$ or \$33,333. A 30 mill rate (\$30 per \$1,000 in net taxable value) generates a tax obligation of \$1,000 or one percent of taxable value.

SIGNIFICANT ISSUES

The proposal appears to be targeted in part at the “property tax lightning” problem. The lightning refers to fact that, whereas residential 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. Because of the variability of local housing markets, impacts of tax lightning vary significantly across jurisdictions.

Since total tax liability depends on tax rates as well as assessed values, the proposal is a more comprehensive form of tax limit than the present law value limits. Under present law, even if property value is limited, tax liability can increase because both operating and debt service tax rates can adjust upward. The proposal would address the problem by limiting total tax liabilities on a given property. In the process, the proposal is more likely than present law to limit the property tax revenue of local governments.

Unlike the present law value limit, the proposal is not limited to residential property, but would apply to non-residential property as well.

TRD notes:

The major policy issue raised by the proposed joint resolution is whether taxpayers should be prevented from imposing tax levies on themselves by majority vote beyond a certain point. The New Mexico Constitution currently provides a number of limits that are similar to the one proposed. Article IX, Section 13 of the Constitution, for example, limits debt that counties and municipalities may impose via majority vote to four percent of taxable of property within their jurisdictions. The proposed measure would be similar in nature to these provisions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bills 45, 46 139 and 217 and House Bills 132 and 263 amend the present law statutes limiting annual increases in residential property values.

OTHER SUBSTANTIVE ISSUES

TRD notes:

Article 8, Section 2 of the New Mexico Constitution currently limits property tax rates that may be imposed without voter approval to a total of 20 mills, or \$20 per \$1,000 in net taxable value. Provisions of the Property Tax Code distribute the 20 - mill limit as follows: counties may impose 11.895 mills; municipalities may impose 7.65 mills; and school districts may impose up to .5 mills. Hence under current law, essentially all levies in excess of the levies imposed by counties, school districts and municipalities must be voter approved. The constitution also stipulates that property taxes may be imposed on no more than 1/3rd of assessed (market) value.

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

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