F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	03/04/11		
SPONSOR	McMillan	**LAST UPDATED**	03/14/11	**HB**	451/aHCPAC
SHORT TITLE	Residential Property Valuation Increases			**SB**	
				ANALYST	Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	**FY12**	**FY13**		
	($14,800.0)	*	Recurring	GO Bond Capacity**
	*	*	Recurring	Property tax beneficiaries

(Parenthesis ( ) Indicate Revenue Decreases)

*****See Fiscal Implications
** General obligation bond capacity is the total principal of GO bonds that can be outstanding in a given year; it is 1 percent of the total net taxable value in the state. The decrease in GO bond capacity that would result from HB 451 would not have an effect on the bonds that are currently outstanding, nor would it affect the payment on those bonds.

SOURCES OF INFORMATION

LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HCPAC Amendment

The amendment removes the provision that would allow the county assessor to increase property values by 5 percent in the year following a change of ownership. It also calls for a revaluation of property that was newly constructed between 2004 and present, using a presales assessment ratio to control for the 3 percent limitation on the growth in value of other residential property. Going forward, the valuation of newly constructed property would be performed using this ratio. Finally, the amendment changes the time period for which property is revalued from 2003-2010 to 2004-2010. These provisions will not have a sizeable fiscal impact beyond that which was estimated for the original bill.

Synopsis of Original Bill

House Bill 451 would require county assessors to re-assess all residential property that had a change of ownership in or after the 2003 tax year and before the 2011 tax year to its value in the year immediately preceding the most recent tax year in which a change of ownership occurred, grown at a rate not to exceed 3 percent for each year following the transfer through the 2010 tax year, provided that for the first year following transfer, an assessor may raise the value of the property to an amount not to exceed 105 percent of the value in the year of the transfer.

HB 451 also extends the 3 percent valuation growth limit to property that changes hands in the future.

FISCAL IMPLICATIONS

TRD:

The "rollback" provisions will cause statewide residential net taxable value to decrease by approximately 5% following adoption of the proposal. This estimate is based on a simulation using average house price increases and also on the experience of Bernalillo County where a rollback of values was implemented last year. The fact that Bernalillo County has already implemented a rollback reduces the statewide impacts of the proposal. Both operating and debt service levies would adjust upward in response to decreased values, holding local government revenues largely harmless but creating tax increases for property owners whose values are not being rolled back. The total amount of liability shifted in this way statewide is estimated to be about $40 million. Impacts of the proposal would vary significantly from county-to-county because of regional housing market variety.

#State general obligation bond capacity is equal to 1 percent of net taxable value, and is therefore reduced by the reduction of residential net taxable value under the bill.

In the future, the growth rate of residential net taxable value will be reduced by approximately 0.5 percent to 1 percent per year due to extending the 3 percent limit to properties changing ownership. This effect would compound over time.

SIGNIFICANT ISSUES

TRD:

This bill addresses "property tax lightning" issues under existing law. Currently, property assessments can increase by no more than 3 percent per year while a property is retained by the same owner. However, the assessed value of the same property increases to market value when the property is sold. Concerns have been raised as to whether the existing law violates Article VIII, Section 1 (A) of the Constitution. Particularly, there are concerns that the existing law does not provide for equal and uniform taxation of subjects of the same class. Proponents of the existing law indicate that Article VIII, Section 1(B) permits distinctions in valuation increases based on owner-occupancy.

The bill extends the 3 percent limitation on annual valuation increases available to existing residential property owners to new owners. It also aims to make consistent the application of the 3 percent limitation to existing and new residential property owners with respect to residential property transferred in or after the 2003 tax year. However, with respect to those transfers, the bill permits county assessors to raise the 3 percent limitation in valuation increases to 5 percent following the year in which the property is transferred. The temporary 5 percent valuation increase could give rise to the same constitutional arguments against the existing law.

It should be noted that not all facets of property tax lightning are addressed by HB 451. First, the allowance of the 5 percent increase for the year following a transfer treats properties inconsistently. In addition, it does not address property that is assessed for property tax purposes for the first time. Assessing new property at its current and correct value translates to more inconsistency in the treatment of residential property for property tax purposes.

ADMINISTRATIVE IMPLICATIONS

TRD:

The proposal would impose substantial administrative costs on county assessors and, to a lesser extent, the Property Tax Division. The most difficult provision to administer is identifying values of newly-constructed and transferred properties as far back as 2004. Given these challenges, implementing the provisions before property tax year 2012 is probably not feasible.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicate of SB-108S and related to SB-189.

TECHNICAL ISSUES

TRD:

Section 2 makes the provisions of HB-451 applicable to the valuation of residential property for tax year 2011 *or* succeeding tax years. However, Section 1, Subsection A extends the 3 percent valuation limitation to new residential property owners permanently. Therefore, the provisions of Section 1, Subsection A should be made applicable to tax year 2011 *and* succeeding tax years.

Section 2 indicates that the provisions of Section 1, Subsection B are to apply prospectively. Thus, any adjustments to property value would only affect property valuations or property tax bills for 2011 or subsequent property tax years. If the intention is to apply Section 1, Subsection B retroactively, such intent should be specifically stated in Section 2. However, existing statutes of limitations may preclude property owners from bringing forth protests or claims for refund with respect to property taxes paid for previous property tax years.

On page 3, lines 13 and 14, in revaluing properties that changed ownership between 2003 and 2011, the assessor is allowed to increase the value of property "to an amount not to exceed one hundred and five percent of the value in the year of the transfer…" This language is a bit confusing. If the intention is to limit the increase in the year a property is transferred to five percent, it might be clearer if it said "one hundred and five percent of the value in the year prior to the transfer."

OTHER SUBSTANTIVE ISSUES

TRD:

> Local governments and school districts often react to an increase of taxable value by proposing an increase in debt issuance to voters, using the argument that "your property tax won't go up." Under this approach, the proposal could lead to decreased debt issuance and decreased property tax liabilities because it will restrict residential net taxable value.

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