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FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/11

SPONSOR SCONC LAST UPDATED _____ HB _____

SHORT TITLE Rezone Parcels In Certain Situations SB 69/SCONCS

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From
Attorney General (AGO)

SUMMARY

Synopsis of Bill

Senate Conservation Committee Substitute for Senate Bill 69 enacts a new section of Chapter 3, Article 21, pertaining to zoning authority of counties and municipalities.

SB 69 provides that an amendment to existing zoning of any property may be based on a preponderance of evidence that:

- (1) the existing zoning is inappropriate because there was an error when the zone map was created; or
- (2) the existing zoning is inappropriate because neighborhood or community conditions have changed, which justify the zone change.

The bill further authorizes, in municipalities of greater than 30,000 in population and located in a class A county, an amendatory change in zoning, which is proposed by a property owner, to be based on substantial evidence that a different zoning for the property is more advantageous to the community because it is reasonably expected to reduce vehicle miles traveled or to provide increased energy efficiency, even if the change in zoning would provide a different zoning for the property than the zoning of surrounding property.

The bill defines the term vehicle miles traveled, meaning the total miles traveled by all vehicles in a specified area during a specified time and defines the term energy efficiency to mean a change in energy use that results in an increase in net benefits per unit of energy used.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

According to the AGO, SB 69 appears generally consistent with the principles of law enunciated by the New Mexico Supreme Court in Albuquerque Commons Partnership v. Council of the City of Albuquerque maintaining that proponents of a zoning change must show that such change is justified due to either a change in conditions in the community or a mistake in the original zoning; also recognizing a proponent's ability to show that a different use is more advantageous to the community and requiring a showing of public need, which need will be best served by changing the classification of a particular piece of property. The defined terms may serve to limit the availability of a "public need" showing in municipalities of greater than 3 may be based on substantial evidence that a different zoning for the property is more advantageous to the community because it is reasonably expected to reduce vehicle miles traveled or to provide increased energy efficiency, even if the change in zoning would provide a different zoning for the property than the zoning of surrounding property.

Of note, also, is that zone changes may, depending on the circumstances and scope of proposed action, require adherence to quasi-judicial, procedural due process procedures.

DW/bym:svb