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FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/11

SPONSOR Lopez, L. LAST UPDATED _____ HB _____

SHORT TITLE County Removal of Certain Structures SB 471

ANALYST Aubel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY11 | FY12 | FY13 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|--------------|------|---------|---------|----------------------|-------------------------|------------------|
| Total | | Minimal | Minimal | Minimal | Recurring | Counties |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 349.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of Attorney General (AOG)

SUMMARY

Synopsis of Bill

Senate Bill 471 provides counties the ability to remove dangerous buildings or debris by adding “county,” “board of county commissioners” or “county clerk” as appropriate throughout Section 3-18-5 NMSA 1978. This includes providing a lien in favor of the county and a process for foreclosing on the lien.

FISCAL IMPLICATIONS

There may be additional administrative costs to counties for processing the resolution to the owner of the subject property, performing a hearing in case of objection, and completing a legal action when the owner objects to the final order and files a notice of appeals in district court. Although the statute provides for various ways to offset the cost of cleaning up the property, it is feasible that the county could end up having to absorb the cost. These administrative costs would most likely be minimal and should be weighed against the cost to public safety and health arising from structures or debris that poses a menace to citizens. It is assumed that these administrative costs would be ongoing as these types of properties will arise over time but would be inconsistent from year to year.

SIGNIFICANT ISSUES

Current law provides municipalities with the ability to address the issue of structures or debris that constitutes a menace to public comfort, health, peace or safety. However, if the property is outside of the municipality boundaries, counties do not have the same process. This bill would redress this inconsistency.

The process, which currently is authorized for municipalities, would include the following for counties:

- The board of County Commissioners may, by resolution, find that a ruined, damaged or dilapidated building, structure or premise is a menace to the public;
- Require the removal of the building, structure, ruins, rubbish, wreckage or debris by serving a copy of the resolution to the owner in charge of the building, structure or premise;
- Require the owner to take action within 10 days of receiving a copy of the resolution, or file a written objection with the county clerk asking for a hearing before the board of County Commissioners;
- Require the board consider all evidence for and against the removal resolution at the hearing and determine if the resolution should be enforced or rescinded;
- Allow the owner to give notice of appeal to a negative determination within five days to the commission and file a petition in the district court within 20 days;
- The district court shall hear the matter de novo and enter judgment in accordance with its findings;
- If the court sustains the determination of the county, the county may remove the building, structure, ruin, rubbish, wreckage or debris and the reasonable cost shall constitute a lien against the property; and
- The lien in favor of the county shall be foreclosed in the manner provided in Section 3-36-1 NMSA 1978.

The bill allows the county to pay for the cost of clean up by granting to the person removing the material the legal title to all salvageable materials in lieu of all other compensation.

DUPLICATES

Senate Bill 471 duplicates House Bill 349.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Counties will remain unable to address the problem of structures or debris that pose a nuisance or jeopardize public health through the process outlined in statute for municipalities.

MA/mew