

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 145

50th Legislature, 2nd Session, 2012

Tracking Number: .188546.2

Short Title: Annual Property Valuation Limits

Sponsor(s): Senator Tim Eichenberg and Other

Analyst: David Craig

Date: February 14, 2012

Bill Summary:

SB 145 changes the section of the *Property Tax Act* relating to property valuation to:

- require county assessors to value property on an annual basis as opposed to the option to value annually or biannually as outlined in the *New Mexico Administrative Code* (NMAC);
- extend a 3.0 percent limit on annual property valuation increases;
- eliminates a provision that made the increase the higher of either:
 - the 3.0 percent over the prior year's valuation discussed above; or
 - a 6.1 percent increase over a valuation from two years prior;
- eliminates an exclusion of the 3.0 percent limit to property that undergoes a change of ownership;
- makes all residential property use a initial base valuation of a presales assessment ratio (the ratio of current annual county property assessments divided by current and correct market values);
- "rolls back" property taxes that had a change of ownership between 2004 and 2012 and limits increases to the 3.0 percent discussed above; and
- "rolls back" new construction property values to a base of the market value in the initial year of new construction times the presales assessment ratio.

Fiscal Impact:

SB 145 does not make an appropriation.

According to the Tax and Revenue Department (TRD) bill analysis:

- the "roll back" provisions will cause statewide residential net taxable value to decrease by approximately 7.5 percent. This estimate is based on:
 - average house price increases;
 - the experience of a recent roll back values in Bernalillo County for the 2010 property tax year; and
 - incorporating the roll back already in place in Bernalillo County;

- 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 \$50.0 million; and
- a reduction of the property tax base has a disproportionately adverse affect [sic] on property tax beneficiaries who are subject to voter approved millage rates, county operational rates that are at 11.85 mills and any other operation funded by fixed property tax rates.

As discussed under “substantive issues,” SB 145 will:

- impact the ability of school districts to generate property tax revenues by decreasing bonding capacity; and
- decrease the revenues school districts generate from property taxes, thereby increasing state support in certain instances.

Primarily used for capital outlay, these school district property tax revenues are also primarily in the form of:

- general obligation bonds;
- *Public School Capital Improvements Act* funds (SB-9); and
- *Public School Buildings Act* funds (HB-33).

SB 145 changes the structure of valuation of property by county assessors to minimize impacts to tax payers.

Fiscal Issues:

The use of a presales assessment ratio as the basis of property valuation ensures that property values do not reflect the fair market or “current and correct” values. As the TRD analysis states “adjusting assessed values toward any standard other than current and correct values will result in long term averaging of values rather than reflecting the market.”

Technical Issues:

According to the TRD bill analysis,

- this legislation did not provide funding or instructions for TRD and DFA/LGD to perform proper Sales-Assessment Ratio Studies in each of the counties;
- the TRD and the County Assessors’ offices would need to conduct expanded Sales Ratio Studies in 2012 to meet the conditions of this legislation and after that to verify that the terms of this legislation upheld;
- this would likely require appraisal work in the absence of reliable sales data;
- the valuation method for new construction currently doesn’t separate land value for treatment separate from the pre-sales ratio; and
- this will remove any premium for new construction, which doesn’t reflect market conditions.

Substantive Issues:

General Obligation Bonds

The *Public Schools Finance Act* indicates school districts must follow the *Bond Election Act* when issuing general obligation bonds.

The *Bond Election Act* says that “officials now or hereafter charged by law with the duty of levying general (ad valorem) taxes for the payment of bonds and interest shall, in the manner provided by law, make an annual levy sufficient to meet the annual or semiannual payments of principal and interest on the bonds maturing or the mandatory sinking fund payments as in this article provided.” This statutory provision creates the ability for school districts to issue general obligation bonds.

The Constitution of New Mexico says “no school district shall ever become indebted in an amount exceeding six percent on the assessed valuation of the taxable property within the school district as shown by the preceding general assessment.” This constitutional provision creates the bonding capacity, or the amount of debt a district can issue, for a school district. The final valuation of properties in school districts is determined by both the local county assessor and TRD.

According to the 2012 Public Education Department (PED) Capital Outlay Bureau’s Reference Data Report, school district 2010 Final Total Valuations were \$51.0 billion. If the 7.5 percent decrease in valuation discussed in the TRD bill analysis were to be applied to the 2010 final valuations for school districts, total valuation for school districts would drop to \$47.2 billion. The result would be a reduction in bonding capacity of \$229.6 million to school districts statewide.

As indicated in the TRD bill analysis:

- the impact “would vary significantly from county-to-county because of regional housing market variety.”

Also, according to Legislative Education Study Committee (LESC) analysis of PED data:

- school districts at or near the bonding capacity would also be adversely impacted;
- currently, seven of the 89 school districts are at or exceed the bonding capacity; and
- these districts may have to raise taxes on property, or issue refunding bonds to achieve lowered capacity.

Local Mill Levy Funds

Commonly referred to as SB-9 funds, the *Public School Capital Improvements Act* allows school districts the ability to levy local mill property taxes for the purposes of capital improvements, extracurricular activity transportation and computer hardware and software. The *Public School Capital Improvements Act* (SB-9) says school districts can levy a tax “which shall not exceed two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code,” commonly called a two-mill levy. Most districts levy the two mills allowed under the *Capital Improvement Act*.

For each \$1,000 of taxable base in a school district that is decreased under SB 145, \$2 will not be generated by the school district under *Public School Capital Improvements Act* (SB-9). The associated amount generated under the *Public School Buildings Act* would not be generated as well. Further, under the *Public School Capital Improvements Act*, school districts are provided with a minimum level of local SB-9 capital outlay funds by the state. According to the 2012 PED Capital Outlay Bureau's Reference Data Report, this is based in part on the program units of the school district present on the first reporting period times the matching dollar amount (currently \$75.58) and, if the local revenue generated by the two-mill levy is less than the program guarantee the state funds the difference in the form of "matching" funds. If the property tax base for schools were to suddenly decrease, the State's responsibility to match local funds from the Public School Capital Outlay Fund (PSCOF) would increase and lead to a faster distribution of existing PSCOF funds.

Commonly referred HB-33 funds, the *Public School Buildings Act* allows school districts the ability to levy local mill property taxes for the purposes of improving school buildings and grounds and entering into lease-purchase agreements. The *Public School Buildings Act* (HB-33) says school districts can levy a tax "which shall not exceed ten dollars (\$10.00) on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code," called the ten-mill levy. In practice, no district reaches this level of taxation with actual property taxes ranging from 1.5 to five mills. Only 13 districts levy the HB-33 funds under the *Public School Buildings Act*. For each \$1,000 of taxable base in a school district that is decreased under SB 145, the associated amount generated under the *Public School Buildings Act* for the 13 districts will not be generated by the school district under the *Public School Buildings Act*.

Related Bills:

SB 232 *Capital Outlay for Mid School Science Needs*
SB 306 *Delinquent Property Tax Property Sales*
SB 308a *Freeze 2011 Property Tax Rates*
SJM 37 *Evaluate Public School Capital Outlay*
CS/HB 102 *Estimate Property Tax in Valuation Notices*
HJR 8 *Property Tax Exemption for People Over 75*
HJR 9 *Property Tax Exemption for Low Incomes*