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FISCAL IMPACT REPORT

ORIGINAL DATE 3/16/07

SPONSOR HJC LAST UPDATED _____ HB CS/1032/aHJC

SHORT TITLE Water and Sanitation District Authority SB _____

ANALYST Propst/Baca

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 962

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Office of the State Engineer (OSE)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary amendment deletes Subsection D on page 2 and 3. Subsection D dealt with class B counties with a population greater than 29,000 but less than 33,000 and with a net taxable income of more than \$850,000,000 but less than \$1,000,000,000 and allowed the water and sanitation district to request the county to impose a water and sanitation gross receipts tax and call an election on the tax. Eligibility provisions of the bill would apply only to Taos County. As amended, the bill applies to all Water and Sanitation districts.

Synopsis of Original Bill

House Judiciary Committee Substitute for House Bill 1032 proposes to change the Water and Sanitation District Act. A new section will create authority to impose a gross receipts excise tax of up to twenty five hundredths percent. As described by DFA, this new section of the Water and Sanitation District Act will create authority to impose a gross receipts excise tax of up to twenty five hundredths percent. This is a positive referendum and must be approved by a majority of the voters of each WSD. The referendum must be approved by a majority of voters residing within the boundaries of the district. The bill allows water and sanitation districts to petition their

districts to create representation analogous to municipalities that have districts represented by city counselors. The county rather than the WSD board will be responsible for imposing and administering the gross receipts tax. The gross receipts tax imposed will be in accord with the existing County Local Option Gross Receipts Taxes Act. As introduced, CS/HB1032 applies only to Taos County.

FISCAL IMPLICATIONS

DFA reports that CS/HB 1032 allows water and sanitation districts to impose up to twenty five hundredths percent a gross receipts tax levy after an affirmative vote in an election in the water and sanitation district. The bill allows water and sanitation districts to impose up to twenty five hundredths percent a gross receipts tax levy after an affirmative vote in an election in the water and sanitation district. HB-1032 allows water and sanitation districts to impose up to twenty five hundredths percent a gross receipts tax levy after an affirmative vote in an election in the water and sanitation district. The earliest the .25% WSD tax could be implemented is Jan, 2008. The amount of tax imposed depends on the number of WSDs that petition the County for enactment and the amount of gross receipts tax base within the district. Apparently, only the El Prado Water and Sanitation District in Taos County is seriously interested in this bill.

DFA notes that, based on Taxation and Revenue Department RP-80 reports, total Taxable Gross Receipts for FY06 in Taos County – outside of the city of Taos – are \$288,677,792.37 which is potentially \$721,694.48 in revenue.

The El Prado Water and Sanitation district is an area of Taos County that joins the border of the Village of Taos and covers approximately 1/100th of the land area of Taos County. In the district there is a liquor store, about ten restaurants, three gas stations, one health spa and a few other businesses generating gross receipts taxes. Assuming a growth rate of 2.5% over the next three fiscal years the following represents gross receipts tax revenues resulting from a tax increment of .25% which has been successfully implemented.

Fiscal Year 2008: \$3,791

Fiscal Year 2009: \$7,772

Fiscal Year 2010: \$7,966

TRD will deduct a 3% administrative fee from these amounts prior to remitting the money to the El Prado WSD.

SIGNIFICANT ISSUES

DFA notes that CS/HB 1032 is an attempt to resolve issues – primarily in the El Prado Water and Sanitation district – between residents within the district that want water and sanitation services and non-resident property owners who may not want to pay for services they will not benefit from.

CS/HB 1032 provides that the district commission would fund capital improvements by imposing a gross receipts tax, loosely modeled after the State and Local Government gross receipts taxes. However, only residents of the district would be qualified to vote in the election.

DFA notes that this may be a fair resolution. The non-resident, non-business property owners that do not want to pay for benefits they do not consume would not pay or bear the burden of the gross receipts tax. Business owners within the district would be able to pass the gross receipts tax to their customers. For this group, this is an administrative burden more than a financial burden. These businesses would likely be beneficiaries of the additional water and sanitation services provided in the district.

Currently, a resident of one municipality such as Albuquerque who owns land in the El Prado Water and Sanitation district can vote in the El Prado Water and Sanitation District and in Albuquerque. This allows for more than one vote for that person in New Mexico.

CS/HB 1032 adds to the Act the power of the water and sanitation district to initiate an annexation. A mutual domestic water consumer association will be able to transfer their operation to a water and sanitation district. The bill defines service areas for water and sanitation districts and municipalities in order to avoid boundary disputes. A cutoff of July 1, 2007 will establish where certain residents reside for existing disputes so if a resident in a water and sanitation district is paying a municipality that resident will be able to continue to pay that municipality as part of that municipality's service area after July 1, 2007.

ADMINISTRATIVE IMPLICATIONS

CS/HB 1032 authorizes the Taxation and Revenue Department to collect and distribute the gross receipt tax revenues. It is unclear what TRD's position is on accepting that responsibility. The proposed gross receipts tax base differs markedly from the normal gross receipts tax. Even small differences between the State and local bases can cause significant difficulties according to DFA.

RELATIONSHIP

Relates to SB 962.

TECHNICAL ISSUES

In its analysis to the original bill, DFA suggests that if the sponsors want a gross receipts tax, it should be exactly patterned on the State and Local gross receipts taxes or should be self-administered and collected by the Water and Sanitation District.

The Water and Sanitation Gross Receipts tax would be subject to the regular state and local gross receipts tax. If this is not the desired result, then it is necessary to add "Water and Sanitation District Gross Receipts Tax" to the list at 7-9-3.5 A (3) – probably as a new item "(e)".

OTHER SUBSTANTIVE ISSUES

Taos County expected to elect this Gross Receipts Tax will hardly pay for the cost of conducting an election. The costs imposed on TRD to program computers are probably equal to the amount of revenue raised annually.

AMENDMENTS

DFA suggests that HB 1032 amend the Water and Sanitation District gross receipts tax to exactly mirror the state and local gross receipts taxes or provide administrative authority to the local district which would administer and collect the tax directly.

If the sponsors do not want the tax to be subject to the regular gross receipts tax, then that should be amended into 7-9-3.5 A (3) NMSA 1978.

WEP/LRB/nt:csd