LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: SB 105 **52nd Legislature, 1st Session, 2015**

Tracking Number: .197983.2

Short Title: County Gross Receipts for School Improvements

Sponsor(s): Senator Richard C. Martinez

Analyst: Ian Kleats **Date: February 9, 2015**

Bill Summary:

SB 105 would enact a new section of the *County Local Option Gross Receipts Taxes Act* that:

- allows a county to impose and reimpose a 0.75 percent special county education gross receipts tax for up to 20 years upon approval of a majority of voters in the county at a general or special election;
- prevents another election from being held for one year if voters fail to approve the imposition of the tax;
- requires that special county gross receipts tax revenue be dedicated for the payment of principal and interest on special county education gross receipts tax revenue bonds; and
- allows the governing boards of participating school districts, locally chartered charter schools, and state-chartered charter schools to submit a joint resolution to the governing body of the county requiring:
  - the imposition of such tax; and
  - the issuance of such bonds.

SB 105 further requires that the proceeds of those bonds:

- shall be distributed by the county treasurer to participating school districts and charter schools proportionate to their 40^{th}-day enrollment; and
- may be used only for capital improvements, which include:
  - purchasing or improving school grounds; and
  - erecting, remodeling, making additions to, providing equipment for, or furnishing public school buildings, where equipment is defined to mean "installation of equipment and technology."

SB 105 defines "county" as a Class B county with a population of less than 45,000 according to the 2010 federal decennial census and a net taxable value for the 2012 of more than $1.5 billion.

Finally, SB 105 carries an effective date of July 1, 2015.

Fiscal Impact:

SB 105 does not contain an appropriation. The bill also does not create any revenue impact in itself because imposition of additional gross receipts tax would be subject to voter approval.

Fiscal Issues:

The bill would allow Class B counties as defined herein to impose a voter-approved special county education gross receipts tax. According to 2012 county classifications released by the Local Government Division of the Department of Finance and Administration, the bill would apply to only Rio Arriba County and the following school districts and state-chartered charter schools:

- Chama Valley Independent Schools;
- Dulce Independent Schools;
- Española Public Schools, in which two state-chartered charter schools reside:
    - La Tierra Montessori; and
    - McCurdy Charter School;
- Jemez Mountain Public Schools; and
- Mesa Vista Consolidated Schools.

Participating school districts and state-chartered charter schools would receive proceeds of special county education gross receipts tax proportionate to their 40-day membership. Based on 2012-2013 40-day membership data from the Public Education Department's (PED) FY 14 preliminary funded run, Table 1 illustrates the percentage of any bonds that school districts and charter schools might receive:

Table 1. MEM of Eligible School Districts and Charters as a Percentage of Countywide MEM

DISTRICT/CHARTER	***2012-2013 40 DAY MEM***	***Proportion of MEM***
CHAMA VALLEY	377.00	5.91%
DULCE	705.00	11.05%
ESPANOLA W/CHARTER	4,044.00	63.40%
ESPAÑOLA	3,825.00	59.96%
CARINOS DE LOS NINOS	219.00	3.43%
JEMEZ MOUNTAIN W/CHARTERS	287.50	4.51%
JEMEZ MOUNTAIN	263.50	4.13%
LINDRITH AREA HERITAGE	24.00	0.38%
MESA VISTA	388.50	6.09%
STATE CHARTERS		
LA TIERRA MONTESSORI (ESPANOLA)	74.00	1.16%
MCCURDY CHARTER SCHOOL (ESPANOLA)	503.00	7.89%
GRAND TOTAL	6,379.00	100.00%

The 20-year limitation on the imposition of the gross receipts tax suggests that eligible counties might be able to issue two 10-year bonds over the duration of the revenue stream. In this sense, revenue to school districts would be nonrecurring, although the revenue to the county would be recurring.

According to the Taxation and Revenue Department (TRD) bill analysis, this tax could generate approximately $3.0 million per year. Assuming a coverage ratio of 1.1 and an interest rate of 5.0 percent, this revenue stream could potentially support a 10-year bond of approximately $21 million.

The PED bill analysis notes that SB 105 will create a revenue stream for educational related capital outlay projects as an alternative to property taxes. The funds will provide school districts and charter schools within qualifying counties financing options for:

1. erecting, remodeling, making additions to, providing equipment for, or furnishing public school buildings; and/or
2. purchasing or improving school grounds.

Because the imposition of the special county education gross receipts tax under the provisions of SB 105 would require a general or special election, it is uncertain whether a county could hold such an election, impose the tax, and issue bonds prior to FY 17. This situation could delay the receipt of funds by school districts and charter schools.

<u>Technical Issues</u>:

On page 3, lines 15-18, the bill would require that bond proceeds be distributed on the ratio of 40^{th}-day enrollment, as submitted to PED's student teacher accountability reporting system (STARS). County governments do not have access to STARS, and the sponsor may wish to consider adding language that requires PED to certify the 40^{th}-day enrollment data directly to the local counties.

<u>Substantive Issues</u>:

The PED bill analysis suggests that this bill would create a new tax outside of the existing comprehensive statewide tax structure for public school capital projects, which includes the annual revenues generated from Supplemental Severance Tax Bonds and committed by the Legislature to be used to support a statewide standards-based awards process. PED notes that this process was put in place in response to the Zuni lawsuit, which claimed that districts with low property valuations were at a disadvantage in providing adequate facilities for their students.

PED suggests that these locally generated capital funds could jeopardize the framework, which originated from the Zuni lawsuit, because certain counties would have larger capacity to generate capital funds, which could result in substantial difference in the quality of facilities among districts.

Under current law, capital funds derived from special county gross receipts tax revenue bonds are not considered within the statewide standards-based awards process administered by the Public School Capital Outlay Council. The PED bill analysis recommends that consideration be given to including these revenues as local sources when determining the state/district share of public school construction project grant awards.

<u>Background</u>:

The special county education gross receipts tax proposed by this legislation is similar to the county education gross receipts tax, for which only Taos County currently qualifies. Statute was recently amended by Laws 2012, Chapter 39 to allow the continued imposition of that tax.

Committee Referrals:

SEC/SFC

Related Bills:

None as of February 9, 2015.