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FISCAL IMPACT REPORT

ORIGINAL DATE 2/17/17

SPONSOR SFC LAST UPDATED 3/15/17 HB _____

SHORT TITLE Agricultural Land Valuations SB CS/CS/350/SFCS/
aSFI#1/aSFI#2

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					R or NR **	Fund Affected
FY17	FY18	FY19	FY20	FY21		
\$0.0	\$0.0	Indeterminate			Recurring	Counties' Property Tax
\$0.0	\$0.0	Indeterminate			Recurring	State General Obligation Bonds

Parenthesis () indicate expenditure decreases. ** R = recurring; NR = non-recurring

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	R or NR **	Fund Affected
Total	minimal	minimal	minimal	minimal	Recurring	County Assessors

Parenthesis () indicate expenditure decreases. ** R = recurring; NR = non-recurring

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Senate Floor Amendment #2

The second *Senate Floor Amendment* places an expiration clause into the bill after the 2028 property tax year.

Synopsis of Senate Floor Amendment #1

The first *Senate Floor Amendment* on page 5, line 2 changes the qualified management plan to mean one developed according to guidelines established by the soil and water commission.

Synopsis of Original Bill

The Senate Finance Committee Substitute for the Senate Corporations and Transportation Committee Substitute for Senate Bill 350 enacts a new Section of the Property Tax Code, Section 7-36-20.1 NMSA 1978, to create a special method of valuation for land used primarily to conserve the unimproved land pursuant to a qualified conservation management plan.

A “qualified conservation management” plan is a land management plan approved by the Soil and Water Conservation Commission. This bill provides for a recapture of up to five years of property tax when subdivided or otherwise used for purposes not consistent with a conservation plan which at a minimum will maintain or increase the productivity of the land, rangeland, watershed and forest health, wildlife habitat or soil and water conservation; and include an annual implementation plan and progress report. If these conditions are met and continue, the value of the unimproved land shall be valued at twenty five percent of current and correct value.

The legislation further requires the Taxation and Revenue Department (TRD) to promulgate rules for determining whether the land is used primarily to conserve the unimproved land to consistent with a management plan as defined in the bill.

To have this special valuation method applied, the property owner must apply to the County Assessor in a tax year in which the valuation method of this section is claimed to be applicable to the land or in a tax year immediately subsequent to a tax year in which the land was not valued under the terms of this prospective section. The applications shall be resubmitted in the tax year after a change in ownership and five years after the most recent application was granted.

The owner of land valued pursuant to this Section is required to report to the County Assessor whenever ownership of the land changes and whenever the use of the land is no longer consistent with the conservation management plan which qualified the land for valuation under this section.

If a person required to make such report does not do so, the bill imposes a civil penalty in an amount equal to the greater of \$25 or 25% of the difference between the property taxes ultimately determined to be due and the property taxes originally paid for the tax years in which they failed to make report.

FISCAL IMPLICATIONS

The impact of the bill is highly dependent on how much land qualifies for the new special method, which is dependent on the rules set forth in section 1 of the bill (some of which appear to be in conflict, see technical issues below) and are subject to interpretation by outside agencies.

TRD provides the following analysis of the bill:

In the most revenue negative interpretation, nearly all vacant, non-residential, non-commercial and non-agricultural land could qualify for the new special method of valuation. Property Tax Division (PTD) estimates the current valuation of such land statewide at \$14 billion. This figure is divided by three as is done to determine the base for all property taxes, then multiplied by the 75 percent reduction in value using the new special method. Applying an average taxable rate of 31.5 mills for nonresidential land to the result means that revaluing all this land according to the bill would result in an initial

loss of property tax revenue to the counties of approximately \$110 million. Yield control means that property tax mill rates would then increase to make up for the loss. However, as 21 of 33 counties are currently at their maximum operating budget millage rates, some fraction of this loss would indeed be realized by the counties. Also, as 4.5 percent of property tax revenue goes to state general obligation bonds, there would be a corresponding loss to state revenue.

The possibility that county revenue could increase, as the new valuation method defines a higher base than other special (typically agricultural) property valuation methods under current law, was also considered. However, the only way for this to happen is for the County Assessor or the property owner to identify a property as no longer being eligible for a lower special designation, and then to obtain an approved conservation management plan on the property. The Taxation and Revenue Department (TRD), however, cannot quantify the amount of property that would be reclassified according to the proposed special valuation method each year.

SIGNIFICANT ISSUES

Improper usage of special methods of valuation has been an issue statewide and is reportedly a serious problem in some counties. Assessors in several counties undertook reevaluations in large part to address this concern and reportedly have reclassified a significant number of properties. On the other hand, once properties are reclassified, property tax liabilities for those properties can jump significantly, especially as the complexion of surrounding parcels has changed to commercial or high-end residential property. The bill proposes a compromise solution by using a valuation of 25 percent of the full fair market value.

As stated above, TRD notes the key to both the fiscal impact and the overall success of the bill is defining which properties qualify, so that bona-fide conservation is taking place as opposed to just incentivizing untended or neglected land.

The mechanism for proper classification is via approved management plans and progress reports, as given in sections 1-C and 1-I of the bill. The soil and water commission is given authority to define the guidelines for the management plans. However, it is not defined in the bill which agency or authority will approve the plans for the individual parcels. One possibility is that this responsibility is handled by the 47 soil and water conservation districts, and which are accustomed to analyzing individual parcels. The soil and water commission has general oversight of these districts. In any case it will be important for any authority to ensure the proper usage of the new valuation method or the property tax base for the counties involved could be reduced considerably. Because the bill does not define this authority nor contain an appropriation of funds, there is a possibility of insufficient review of individual management plans.

According to TRD, how one views the revenue impact of the proposal depends largely on the legitimacy of current special valuation methods (particularly agricultural ones) as many properties have become more mixed use. The bill could be viewed as revenue positive for the counties if one assumes that the bill would encourage more revaluation of current improper designations than would have happened. To the extent that properties would have been re-designated anyway, however, the bill is revenue negative. Ultimately, the County Assessors' view on this subject is imperative; the experience of the above-reported counties would suggest that many properties currently classified as agricultural are perhaps improperly classified.

Larger property tax policy issues also need to be considered. First, New Mexico has one of the lowest property taxes nationally. Second, a large percentage of land within New Mexico cannot be subject to property taxation because it is owned by the federal, the state or tribal governments. In short, it is a relatively small tax base compared to other states. Additionally, 23 counties have maxed out their millage rate with respect to overall operating budgets, and several have maxed out their nonresidential rates with respect to their school operating budgets. With this background in mind, counties may be concerned with revenue adequacy and moving non-productive agricultural land to its highest and best use. From the other perspective, landowners may raise concerns about the ability to retain land with the increase in taxes owed.

Given return on investment under the proposed special valuation method, County Assessors may not be further incentivized to revalue improperly valued properties, as they would recuperate much less in terms of revenue with the proposed method than a fair market value approach. Additionally, counties which have recently been active in properly revaluing agricultural properties will be penalized, as many of those properties will now be eligible to significantly reduce their taxable value.

ADMINISTRATIVE IMPLICATIONS

This bill has administrative implications to county assessors who would have to apply the special valuation method described in the bill and to county treasurers who will have to calculate, bill and collect differences in tax liability associated with changes in land use and to also calculate, bill and collect any penalties to non-reporting land owners. The difference in workload to counties is indeterminate because it is difficult to estimate how many land owners will be affected by the provisions of this bill. Counties with more unimproved land will be more heavily impacted.

This bill also has an administrative impact on PTD, which would need to issue guidelines on the new special valuation method included in the bill. PTD would also have to develop the required application for claiming the special valuation method and the form for land owners to report land use changes.

TECHNICAL ISSUES

TRD points out a conflict in the bill about valuing improved property. Section 1-B states that improvements to the land create the presumption that the land is not used for conservation, and therefore the new method of valuation is not applicable. However, 1-D states that the value of improvements are just added to the new method of valuation for the rest of the land. In general, improvements are contrary to conservation, so TRD recommends that section 1-D be removed.

Additionally, TRD notes an issue with the liability defined for the recapture of property taxes. Section 1-H states that the liability for recapture of up to five years of property taxes upon subdivision or other change in use becomes a personal liability. Making property taxes a personal liability is unusual and could result in the liability becoming unsecured. For this reason TRD recommends the word ‘personal’ be removed.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

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