FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Neville	**ORIGINAL DATE**	2/8/23
SHORT TITLE	County Industrial Bond Changes	**BILL NUMBER**	Senate Bill 152
		ANALYST	Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	**FY24**	**FY25**	**FY26**	**FY27**		
	May result in more IRB deals, which may be short-term revenue losers, but long-term revenue gainers				Recurring	General Fund
	May result in more IRB deals, which may be short-term revenue losers, but long-term revenue gainers				Recurring	Counties

Parenthesis ( ) indicate revenue decreases.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	NFI	NFI	NFI		DFA/BoF

Parenthesis ( ) indicate expenditure decreases.

Sources of Information

LFC Files

Responses Received From
Department of Finance and Administration/Board of Finance (DFA/BoF)
Economic Development Department (EDD)

No Response Received
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Senate Bill 152

Senate Bill 152 amends Chapter 4, Article 59 NMSA 1978, known as the County Industrial Revenue Bonds Act, by repealing Section 15 in entirety. Section 15 requires the State Board of Finance hold a hearing and make a determination in the event a representative of an existing business or enterprise claims that the issuance of IRBs for a proposed project would directly and substantially compete with the existing business/enterprise. The hearing and determination would need to be made prior to IRBs being issued and within 90 days of receiving a request for a determination from the county. Thus, the proposed bill would eliminate the requirement for the State Board of Finance to hold a hearing or issue a determination.

FISCAL IMPLICATIONS

By repealing an appeal process that could delay or deny an IRB application, the fiscal impact might be to encourage more IRB deals. IRBs generally cause short-term losses for the general fund and local, sponsoring governments because the gross receipts tax on any equipment involved in an IRB deal would be zeroed out. In the long run, the majority of IRB deals result in durable economic development.

However, noting from the DFA/BoF contribution below that the section has not been used to any apparent effect, there will probably be no fiscal impact from this repeal.

SIGNIFICANT ISSUES

DFA/BoF notes the following:

> The proposed bill would make the provisions of the County Industrial Revenue Bond Act more closely match those in the Municipal Industrial Revenue Bond Act, which does not provide for a hearing and determination by the State Board of Finance if an existing business claims direct and substantial competition from a proposed project utilizing IRBs.
>
> Currently, should a claim be made under the County Industrial Revenue Bond Act, the proposed project could seek the issuance of IRBs by a municipality. Thus, there is currently a work-around for the current provision of bringing claims to the Board for a hearing and determination for projects utilizing county IRBs.
>
> The State Board of Finance has had one appeal brought forth in the last 28 years, thus this provision of statute is not utilized. In that instance, the project sought the issuance of IRBs through a municipality instead of a county once an appeal was initiated.

EDD notes a similar impact:

> The 2015 amendment to Section 4-59-15 has proven not to accomplish its original intent but has caused issues by allowing businesses and individuals to negatively affect potential positive economic impact. The intent was to not allow an uneven playing field for business, but in fact has allowed businesses to push for monopoly of an industry sector by stifling competition. The repeal would significantly halt this activity.

PERFORMANCE IMPLICATIONS

An apparent defect of the IRB provisions is that the impacts are not accountable. TRD rarely has the data to report the initial or recurring impacts of local IRB deals negotiated by counties or municipalities. DFA/local government division approves the annual budgets of local governments but would not have access to information about IRB deals as they affect budgets. In some cases, the annual audit notes of local governments report tax expenditures implemented by that local jurisdiction. This could include IRBs or TIDDs or TIF executed pursuant to the Metropolitan Redevelopment Act. However, these audit reports are difficult to find and the state auditor is not able to accumulate those tax expenditure notes into accountable reports.

POSSIBLE QUESTIONS

Is there any mechanism or requirement that could be added to the county or municipal industrial revenue bond acts to ensure accountability?

LG/al/ne