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FISCAL IMPACT REPORT

SPONSOR:	Aragon	DATE TYPED:	02/12/00	HB	
SHORT TITLE:	Collect Delinquent County Property Taxes			SB	424/SWMCS
				ANALYST:	Williams

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	FY01			
		See Narrative		TRD Budget

(Parenthesis () Indicate Revenue Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

LFC files

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SWMC Substitute

The bill would authorize class A and B counties to retain a private attorney to collect delinquent property taxes, interest and penalties. The private attorney may file suit to foreclose a lien securing payment or seek a personal judgment against the taxpayer.

Allowable costs which may be recovered by the private attorney include:

- Usual court costs
- Cost of filing for record
- Expenses of tax sale
- Reasonable expenses incurred to determine taxpayer's name, identity and location and obtaining legal description
- Reasonable attorney fees

The bill outlines liability for costs and opportunity for installment payment plans.

If the county uses this approach, then the taxpayer must pay an additional 30 percent of the total of taxes, penalties, interest and costs due; the civil penalty is remitted to the contract attorney upon collection of taxes, penalties and interest.

Provisions of new program would begin in property tax year 2001. The substitute indicates that having assumed authority to collect delinquent taxes due to real property, the county may return that authority to TRD. The notice of reversal should be made to TRD at least 18 months prior to the beginning of the property tax year that the reversal would begin. TRD is authorized to provide model resolutions for the counties for the assuming and reversing of this program.

The effective date of the bill is July 1, 2000.

Significant Issues

TRD notes Bernalillo and Doña Ana Counties are Class A counties today. As a result of Census 2000, Santa Fe, Sandoval and San Juan Counties may become Class A counties.

Class B counties include all other counties in New Mexico except Catron, DeBaca, Guadalupe, Harding, Los Alamos, Mora, and Union.

FISCAL IMPLICATIONS

Currently, TRD fills the role of collecting delinquent property taxes, and penalties, interest and costs due are retained by TRD to administer the Property Tax Code. To the extent these efforts might shift to private attorneys, then TRD revenues for providing this service would decline.

The department did not provide an amount in its analysis of the bill. LFC staff is attempting to determine the amount.

TECHNICAL ISSUES

TRD suggested in its original analysis the following need to be addressed: 1) liability for title research mistakes made by the private attorney; 2) other collection costs such as court costs and advertising fees.

TRD suggested in its original analysis a reversal of an election by a county to use a private attorney should be approved by the department and/or the Legislature, due to the workload and staffing patterns involved.

OTHER SUBSTANTIVE ISSUES

TRD assumes that the change in 7-38-62 NMSA 1978 would result in the private attorney pursuing all eligible delinquent property tax cases, rather than selectively pursuing certain cases.

TRD notes imposing a 30 percent penalty on top of current penalties is arbitrary and may conflict with Article II, Section 18 of the New Mexico Constitution which requires equal protection under the law.

Two advantages of current system noted by TRD: 1) economies of scale and 2) external review of county's property tax account activities.

AW/gm