F I S C A L   I M P A C T   R E P O R T

SPONSOR: Maes DATE TYPED: 03/04/01 HB

SHORT TITLE: Change Authority of County Commissioners SB 615

ANALYST: Padilla

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	**FY02**	**FY01**	**FY02**		
	NFI		NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
Public Regulation Commission
New Mexico Association of Counties

SUMMARY

Synopsis of Bill

Senate Bill 615 deletes language that authorizes county commissioners to impose charges for their expenses associated with the granting of public utility and telecommunications franchises.

Significant Issues

Currently, counties are able to recoup *reasonable actual expenses* that they incur in the granting of electric, gas, water, sewer and telecommunications franchises. These expenses include items such as legal fees, staff costs and court costs. It appears that this bill would remove a county's authority to charge utilities for these expenses. (The PRC, however, reads the bill differently. See their analysis below under "other substantive issues.")

The New Mexico Association of Counties has concerns that this bill may have negative financial implications for their members. The Attorney General notes that these expenses would most in all likelihood be passed along to county taxpayers. The AG's office notes that charging all taxpayers for franchise costs of utilities is not as fair as charging only the ratepayers.

FISCAL IMPLICATIONS

This bill contains no appropriations.

As noted above, the bill may require counties to incur costs that are now passed along to utilities and then to ratepayers.

OTHER SUBSTANTIVE ISSUES

The PRC adds:

> Section 18 of the Electric Restructuring Act requires that a franchise fee charge be stated on a separate line item on a regulated electric utility's bills, to be recovered only from customers located within the jurisdiction of the government authority imposing the franchise fee. For other utilities, franchise fees can be included within the cost of service for the utility or broken out as a separate line item for collection from the end customer. Telecommunications companies also separate franchise fees on their billings.
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> It appears that statute as currently written limits a county's franchise fee to reasonable actual expenses incurred. The amendment contained in this bill may remove the actual expense limit currently allowed to be collected through a county's franchise fees negotiated with utilities. An unreasonable franchise fee charged by a county to a provider of public telecommunications service may be deemed a barrier to entry in violation of Section 253 of the Federal Telecommunications Act.

LP/ar