

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: Jennings DATE TYPED: 02/12/01 HB _____
 SHORT TITLE: Clarify Conditions for Annexation SB 286
 ANALYST: Padilla

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 549, which amends the Municipal Code to require the agreement of a majority of a territory's residents before the Municipal Boundary Commission may order annexation of the territory.

SOURCES OF INFORMATION

LFC files
 New Mexico State Land Office
 Attorney General
 Department of Finance and Administration (DFA)

No Response Received From:

Taxation and Revenue Department

SUMMARY

Synopsis of Bill

Senate Bill 286 amends the municipal code to clarify conditions that must be met before a municipality can annex property. The bill also changes the substantive elements necessary in a landowner petition for annexation.

Significant Issues

The bill requires that new conditions be met before the Municipal Boundary Commission (MBC) may order the annexation of territory. The MBC must find that:

1. At least 25 percent of the territory proposed for annexation must be contiguous with the existing municipal boundaries;

2. The municipality must be capable of providing police, fire and solid waste collection services on the date of annexation;
3. The municipality must be capable of providing all other municipal services within two and one-half years of annexation; and
4. The costs for services in annexed areas must be paid from the municipality's general revenue sources or general obligation bonds.

For a landowner petition, the territory for annexation must be 25 percent contiguous and the petition must be signed by a majority of the property owners. The conditions one through four above would also apply.

The bill would prevent what are known as "string" or "flagpole" annexations where municipalities annex long, narrow bands of territory that lead to property that is the actual intent of the annexation. These annexations, which often occur when large companies and developments locate close to a municipality, leapfrog contiguous territory and leave residents of that territory without municipal services.

FISCAL IMPLICATIONS

The bill contains no appropriation and has no fiscal implications for state agencies.

Possible fiscal implications for municipalities are discussed below under "Other Substantive Issues."

ADMINISTRATIVE IMPLICATIONS

The Municipal Boundary Commission has no budget or staff. DFA provides limited staff support. DFA believes Senate Bill 286 could require DFA to provide additional staff support in order to monitor the increased standards for annexation spelled out in the bill.

TECHNICAL ISSUES

The State Land Office notes that the bill makes no provision, such as de-annexation, in the event that municipal services cannot be provided to newly-annexed land.

OTHER SUBSTANTIVE ISSUES

Senate Bill 276 could have significant fiscal and administrative implications for municipalities. DFA notes that a municipality might have to expand the capacities of the police, fire and solid waste departments in anticipation of an annexation, so that on the date of the annexation the municipalities would be in position to provide those services. DFA suggests this would be a subsidy by the existing municipal taxpayers to future residents.

The bill limits revenue sources for services to newly annexed areas to general fund revenues or general obligation bonds. Other revenues sources such as revenue bonds, special assessment fees, development impact fees and special improvement district fees could not be used. DFA believes this provision of the bill could significantly discourage annexations.

The Attorney General's office states that the bill may conflict with Section 3-7-11 NMSA 1978, which allows for the independence of the Municipal Boundary Commission from municipal consent to annexation requests from landowners. The AG's office notes that the bill would effectively

eliminate New Mexico's only involuntary annexation method allowing landowners to be annexed into a municipality without the consent of the municipality.

The State Land Office notes that while state trust lands are not generally subject to local land use, planning or zoning authority, this bill could affect state trust lands which the Commissioner of Public Lands agrees to submit to local authority.

PROPOSED AMENDMENTS

The Attorney General's office suggests an amendment to allow landowner petitions to the MBC to have a lower threshold for establishing that a municipality could provide services to adjacent private lands. Amending the bill as such would exempt landowner petitions from the very specific standards in the bill and would keep the broader standards currently in statute. This would maintain the independence of the MBC from municipal consent to landowner annexation petitions.

LP/njw