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FISCAL IMPACT REPORT

SPONSOR Aragon DATE TYPED 02/09/04 HB
 SHORT TITLE County Boundary Changes in Indian Country Act SB 296
 ANALYST Johnson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration
 Office of Indian Affairs

SUMMARY

Synopsis of Bill

Senate Bill 296 creates a mechanism for tribal lands (reservation or pueblo grant of a tribe and all land held in trust for a tribe or a member of a tribe that are contiguous to the exterior boundaries of that tribe) located in multiple counties to be annexed into one of those counties by changing the boundaries of the affected counties. The bill enables a process that is currently unavailable. At present, there is no process allowing tribal lands in multiple counties to consolidate into one county. New Mexico statutes (Section 4-33-1 NMSA 1978) currently allow annexation of part of one county by another; however, there is no similar statute regarding tribal lands.

Significant Issues

The Office of Indian Affairs provided the following:

Many tribal governments enter into intergovernmental agreements with counties in which the tribe's lands are located regarding mutual governmental concerns, such as law enforcement, fire and medical emergency services. These agreements allow tribal governments and counties to better coordinate services and efficiently use limited resources. The difficulty is when a tribal government is in several different counties, the tribal government is faced with dealing with each

counties policies, procedures, department and personalities. The lack of uniformity makes it difficult to implement consistent policies and procedures.

Consolidation would enable tribal government to build relationships with the county government that the tribe is located in and avoid jurisdictional uncertainty and gaps in service. Consolidation would be more convenient and economical for rendering governmental services. The consolidation would not negatively impact the county tax base since Indian land is not subject to property taxes.

The department of finance and administration provided the following:

The bill requires the petition for change to be based on reasons; however, because a standard for reasons are not set forth in the bill, a change in boundaries could occur based on minimal and/or ephemeral considerations. No critical reasons or standards for this bill have been articulated by those consulted.

The bill is supported by Isleta Pueblo whose governor wishes to consolidate Isleta tribal lands, which are now in Valencia, Tarrant, and Bernalillo Counties, solely into Valencia County. His articulated purpose is to create a greater voting block for Isleta. The bill does not apply specifically to Isleta, however. Furthermore, issues created by this bill reach beyond those of voting blocks. This bill applies to all tribal lands that fit within the bill's purview.

FISCAL IMPLICATIONS

The department of finance and administration provided the following:

The bill could affect and would apply to many tribal lands. The bill is being supported at the time of the writing of this analysis by Isleta Pueblo, which is located in Tarrant, Bernalillo, and Valencia Counties, but at any time other tribal lands that qualify could also consolidate. A concern exists that there will be a snowball effect with many tribes using the process provided by this bill. Consider some of the tribes and their locations in multiple counties. Some of these tribes would not be eligible for change, but many would--there is an issue of contiguity.

Cochiti-Sandoval, Santa Fe County
Jicarilla Apache Reservation (Nation)-Rio Arriba, Sandoval
Isleta Pueblo-Bernalillo, Tarrant, Valencia
Laguna Pueblo-Sandoval, Valencia, Bernalillo, Cibola
Navajo Nation -McKinley, San Juan, Bernalillo, Socorro, Cibola (not contiguous land)
Sandia Pueblo-Sandoval, Bernalillo County
Santa Clara Pueblo-Rio Arriba, Santa Fe County, Sandoval
Santo Domingo Pueblo-Santa Fe County, Sandoval
Zuni Pueblo-McKinley, Cibola

According to the bill, annexation and secession can occur by default and without public notice or vote. The petition from the tribe for boundary changes is deemed approved after ninety days if there is no vote by a given county—the boundary changes can take place without a public vote by the county commissioners. There might, therefore, be no notice of a vote, no public notice that such a change would take place, no public hearing, and no county commission votes. Given that there are no prerequisite reasons or standards for change, there is no opportunity to protest.

Some of the fiscal implications can be gleaned from the list below (note that the boundary shifts would have an effect not only on the county to which tribal lands are annexed, but on the counties from which tribal lands are seceded).

- A shift like this will increase or decrease the voting power blocks of the tribal community. Example: Isleta tribal land within Valencia County has 500 residents. If all of Isleta moves into Valencia County, 900 Bernalillo County residents would become Valencia County residents. Valencia County would then have 1400 residents/citizens from Isleta Pueblo. Voting blocks can have a definite impact on how county money is raised and distributed.
- EMS, fire, police, health services, detention facilities, to the extent provided to all county residents and not the sole responsibility of the tribe, would be affected by an increase or decrease in population. At this time the tribes provide many basic services, but it is not clear whether they are required to provide them or whether they could ask the county to provide them for their residents in the future. At least some services are provided to any county resident. County health services was given as an example. County health services are provided by Bernalillo County and not Valencia County. Would a tribe shop counties?
- School districts may change. Even if a tribe is its own school district now, would it continue to have that when the boundaries changed? Redistricting would probably occur. Students might be required to travel farther for their education (especially post elementary) than they do now. Revenues might be an issue depending on how the education responsibility is split among the tribe, BIA, and the affected counties.
- Regional planning agreements and plans have often been set up on a county basis. Also, infrastructure has been built considering the county as a unit of politics, negotiation, authority, partnership, and comradeship. If the boundaries change all of the synergy and often fragile balances embodied in vital agreements and infrastructure may be affected. If this balance is changed, it may be hard to rebuild and decisions regarding crucial services will be put on hold as new alliances are attempted. For example, a water service district agreement could be voided if county lines change. Often water rights enter into negotiations regarding water management. If county lines change, some water rights that are negotiated in agreements may be removed from that agreement, which may result in a disruption in water services.
- Apparently, although a county might have to provide more services if more tribal lands were annexed, there would be no property tax or gross receipts tax income consequences (although regarding the GRT there have been agreements made whereby there is money collected in lieu).

POSSIBLE QUESTIONS

The department of finance and administration questions: Should there be public notice and perhaps a vote by the affected counties? Should there be a mechanism for protest?

For reasons of voting rights issues, is it acceptable that the governing body of a tribe can bring a petition even though that body was not constituted through the one person, one vote process or does that language need to be amended?

CJJ/prr:lg