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FISCAL IMPACT REPORT

SPONSOR Feldman DATE TYPED 2/3/05 HB _____

SHORT TITLE Alcohol Local Empowerment Districts SB 244

ANALYST Medina

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to the Liquor Control Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Attorney General (AGO)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 244 amends the Liquor Control Act to include provisions allowing areas within local option districts to create and designate by ordinance areas as local empowerment districts if areas are adversely affected by chronic public intoxication or by illegal activity associate with alcohol sales or consumption. The bill adds a definition of “chronic public intoxication” to the Liquor Control Act as “the effects of public consumption of alcoholic beverages or public intoxication that endanger the public health, safety and welfare of a community”.

Ordinances issued creating local empowerment districts by local option district governing bodies must demonstrate findings indicating that chronic public intoxication or other illegal activity associated with alcohol sales or consumption contributes to the deterioration of the quality of life or threatens the public health, safety and welfare of residents in the area.

The bill proposes restrictions on the sales and service of alcoholic beverages and the sizes of containers within a designated local empowerment district including hours of sales and service and type of alcoholic beverages sold. These restrictions would be subject to public hearings held by the director of the Special Investigations Division of the Department of Public Safety.

Significant Issues

According to the Attorney General's staff:

“The state, under its police power, has legitimate and substantial interests in the health and safety of its citizens, the safety of its highways, the stability of its families, and the productivity of its work force, all of which are significantly and adversely affected by the abuse of alcohol, and these state interests are exceptionally strong. Under USCA Const. Amend. 21., the state has broad authority to regulate alcohol sales under traditional police powers, but the 21st amendment confers power to prohibit totally, and to limit the times, places and circumstances under which liquor may be sold. Oklahoma Telecasters Association v Crisp, 699 F.2d 490 1983. Whether private interests are unconstitutionally affected by this bill could lead to challenges in court.”

According to the Department of Health:

“The State of New Mexico is one of the leading states for per capita for alcohol consumption and is also one of the leading states for alcohol related problems such as alcohol involved fatal crashes, cirrhosis, and alcohol related deaths (Centers for Disease Control and Prevention, Wonder Database). Data organized by county show that some counties bare a heavier burden from substance abuse than others. Rio Arriba County had the highest combined alcohol and drug-related death rate in the state. McKinley County had the second highest rate of combined alcohol and drug related deaths, and had the highest rate of alcohol related deaths. Grant County in the southern part of the state has the second highest rate of alcohol and drug related hospitalizations. Grant and Dona Ana Counties have the highest rates of drug and alcohol related crime.”

ADMINISTRATIVE IMPLICATIONS

The Special Investigations Division of the Department of Public Safety would incur additional administrative duties.

TECHNICAL ISSUES

Restricting hours of operation for alcohol sales establishments are currently defined under Section 60-7A-1 of the Liquor Control Act. Restricting the hours by ordinance of a local option district governing body may go beyond the authority of the governing body. The Regulation and Licensing Department suggests the following:

“Amend 60-7A-1 of the Liquor Control Act, (hours and days of business) to provide for an exception to the hours and days of businesses when a local empowerment district has been designated (example: “in cases where a local empowerment district has been designated, hours of operation cannot begin before 10:00 a.m. nor can they extend beyond 10:00 p.m.”).”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The Liquor Control Act would continue as the legal authority on the sale and consumption of alcoholic beverages without provisions allowing for the creation of local empowerment districts.

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