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FISCAL IMPACT REPORT

SPONSOR Neville DATE TYPED 2/23/05 HB _____

SHORT TITLE Expand Use of County Fire Protection Tax SB 942

ANALYST Wilson

APPROPRIATION

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

Relates to HB 992

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Department of Finance & Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 942 amends NMSA Section 7-20E-16 to allow a county commission to adopt an ordinance compensating volunteer firefighters from funds collected from the county fire protection excise tax. The compensation must be based upon "objective performance standards" and may not exceed 20% of the annual revenue collected for any individual firefighter, up to \$4 hundred a month. The commission may also include in the ordinance provisions for disbursements to volunteer firefighters to replace equipment and clothing lost or damaged while fighting fires or in training, and for personal vehicle expenses incurred in firefighting.

Significant Issues

The AGO provided the following:

Pursuant to NMSA Section 7-20E-16, before a county may impose the fire protection excise tax, it must hold an election and a majority of qualified electors in the county must vote to impose the tax. If the question passes, the tax is imposed on people engaging in business in the county. The tax rate is *one-fourth percent or one-eighth percent of the gross receipts of the person engaging in business*. Depending upon the language pre-

mented to the voters describing the purposes for which the tax will be imposed, a county may or may not be able to “expand” the use of the excise tax as contemplated by this bill.

This bill will effectively allow a county commission to adopt an ordinance converting “volunteer” firefighters into county employees who will be working for compensation. This bill raises issues regarding benefit entitlement, payment schedules, parity with other county employees, equal pay for equal work, and whether the county is authorized or obligated to use other funds to pay its new firefighter employees if the county fire protection excise tax is insufficient. This new status as employees is supported by language in the bill which will enact an exception to the current prohibition against paying compensation to “any employee”.

Presumably firefighters receiving the compensation authorized by this bill will no longer be eligible to accrue service credit under the Volunteer Firefighters Retirement Act, since they will no longer be “nonsalaried” members, as defined by current law.

Reimbursement for vehicle expenses must conform to Internal Revenue Service guidelines. If not, they could be considered taxable “compensation”.

The New Mexico Association of Counties is in support of this legislation as it allows each county to determine if it is feasible for their county.

FISCAL IMPLICATIONS

Once a county begins compensating an individual for services based upon objective performance standards, they will most likely be deemed an “employee”. If the county fire protection excise tax funds are insufficient to pay all of the new firefighters on an equal basis, the county may have to pay them from its general funds.

ADMINISTRATIVE IMPLICATIONS

County fiscal staff will have to process disbursements per requirements. Minimal resources are required for this task.

RELATIONSHIP

This bill is substantially similar to HB 992. They both enact the same amendments to NMSA Section 7-20E-16. However, HB 992 contains legislative findings and this bill does not.

DW/lg