

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/07

SPONSOR Rawson LAST UPDATED _____ HB _____

SHORT TITLE Church Property Right Adjudications SB 230

ANALYST Hanika Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 230 enacts an Act that will require courts apply "neutral principles of law" when resolving church property disputes. The bill will also govern the determination as to whether a trust affecting church property has in fact been created during a dispute. This legislation is intended to free civil courts from entanglement in questions of religious doctrine.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

SIGNIFICANT ISSUES

The language dealing with trusts in this bill arises from disputes in which one party asserts an "implied trust theory". This theory asserts that a local church accepts and holds local church property for the benefit of the entire membership of the hierarchical church and is impliedly bound to hold its church property as a charitable trust for the benefit of the specific religious use in effect at the time it acquired the property.

The AGO reports that the bill adopts the “neutral principles of law” method of resolving property disputes which arise between different factions in a religious organization. The disputes often arise when one faction seeks to break from another and the question of who owns church property leads to litigation in state courts. The method adopted in this bill was approved by the United Supreme Court in *Jones v. Wolf*, 443 U.S. 595 (1979) and allows a state to use generally applicable neutral principles of state law to resolve church property disputes without violating the United States Constitution. A state need not defer to religious authority in resolving church property disputes. The sources to be used to settle such disputes are the deeds to church property, the articles of incorporation of the local church, the state statutes, and the rules of the general church organization. The primary advantages of the neutral principles approach are that it is completely secular in operation, and yet flexible enough to accommodate all forms of religious organization and polity.

The AOC further reports that requiring New Mexico courts to apply certain principles of law may infringe upon the independent judgment and power of the judiciary. This interference, in the Court’s opinion, is prohibited under the New Mexico Constitution in Article III, Section 1:

“The powers of the government of this state are divided into three distinct branches – the legislative, executive and judicial – and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments, shall exercise any powers properly belonging to either of the others, except as in this constitution otherwise expressly directed or permitted.”

AHO/csd