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FISCAL IMPACT REPORT

ORIGINAL DATE 2/14/07

SPONSOR Cisneros LAST UPDATED _____ HB _____

SHORT TITLE WATER & SANITATION DISTRICT AUTHORITY SB 962

ANALYST Propst

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

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 962 proposes to change the Water and Sanitation District Act. A new section will create authority to impose a gross receipts excise tax of up to twenty five hundredths percent. However, although the tax must be approved by voters resident within the district boundaries, non-resident potential taxpayers may be disenfranchised. SB 962 redefines who can vote in a water and sanitation district gross receipts tax election. It allows water and sanitation districts to petition the residents of their districts to create a representative assembly analogous to municipalities that have districts represented by city counselors. The bill would allow for compensation of board members. It addresses annexation into a district by making it necessary for a piece of land to touch the existing boundary of the water and sanitation district.

FISCAL IMPLICATIONS

DFA reports that SB 962 allows water and sanitation districts to impose up to twenty five hundredths percent a gross receipts tax levy after an affirmative vote in an election in the water and sanitation district. However, the actual amount of revenue expected to be collected cannot be readily calculated and may be difficult to calculate at all according to DFA. U.S. Census economic data is inapplicable because the data is not identified by water and sanitation district.

This proposed gross receipts tax uses a different definition of the tax base for the target tax and the State and Local Gross Receipts Tax. This may cause difficulty for estimating because of the potential for pyramiding of the statutory .25%. In practice, what this means is that even if DFA were able to estimate the regular gross receipts tax in the various districts, it would be difficult to estimate the amount of the proposed tax. The difficulties of estimating the potential revenue – even for the El Prado district alone – would require significant time and cooperation of individuals who know and understand the business activity in the target district.

SIGNIFICANT ISSUES

DFA notes that SB 962 is an attempt to resolve issues – primarily in the El Prado Water and Sanitation district – between residents within the district that want water and sanitation services and non-resident property owners who may not want to pay for services they will not benefit from.

SB 962 provides that the district commission would fund capital improvements by imposing a gross receipts tax, loosely modeled after the State and Local Government gross receipts taxes. However, only residents of the district would be qualified to vote in the election.

DFA notes that this may be a fair resolution. The non-resident, non-business property owners that do not want to pay for benefits they do not consume would not pay or bear the burden of the gross receipts tax. Business owners within the district would be able to pass the gross receipts tax to their customers. For this group, this is an administrative burden more than a financial burden. These businesses would likely be beneficiaries of the additional water and sanitation services provided in the district.

Currently, a resident of one municipality such as Albuquerque who owns land in the El Prado Water and Sanitation district can vote in the El Prado Water and Sanitation District and in Albuquerque. This allows for more than one vote for that person in New Mexico.

SB 962 adds to the Act the power of the water and sanitation district to initiate an annexation. A mutual domestic water consumer association will be able to transfer their operation to a water and sanitation district. SB 962 defines service areas for water and sanitation districts and municipalities in order to avoid boundary disputes. A cutoff of July 1, 2007 will establish where certain residents reside for existing disputes so if a resident in a water and sanitation district is paying a municipality that resident will be able to continue to pay that municipality as part of that municipality's service area after July 1, 2007.

SB 962 requires additional training of board members in the areas of public policy and the operations of a water and sanitation district. The training will be provided by the Environmental Improvement Division of the State.

ADMINISTRATIVE IMPLICATIONS

SB 962 requests the Taxation and Revenue Department to collect and distribute the gross receipt tax revenues. It is unclear what TRD's position is on accepting that responsibility. The proposed gross receipts tax base differs markedly from the normal gross receipts tax. Even small differences between the State and local bases can cause significant difficulties according to DFA.

DUPLICATION

Duplicates HB 1032.

TECHNICAL ISSUES

DFA suggests that if the sponsors want a gross receipts tax, it should be exactly patterned on the State and Local gross receipts taxes or should be self-administered and collected by the Water and Sanitation District.

The Water and Sanitation Gross Receipts tax would be subject to the regular state and local gross receipts tax. If this is not the desired result, then it is necessary to add “Water and Sanitation District Gross Receipts Tax” to the list at 7-9-3.5 A (3) – probably as a new item “(e)”.

AMENDMENTS

DFA suggests that SB 962 amend the Water and Sanitation District gross receipts tax to exactly mirror the state and local gross receipts taxes or provide administrative authority to the local district which would administer and collect the tax directly.

If the sponsors do not want the tax to be subject to the regular gross receipts tax, then that should be amended into 7-9-3.5 A (3) NMSA 1978.

WEP/mt