F I S C A L I M P A C T R E P O R T

		ORIGINAL DATE	02/10/09		
SPONSOR	Gonzales	**LAST UPDATED**	03/19/09	**HB**	377/aSFC
SHORT TITLE	Local Government Economic Development Fund Limit			**SB**	
				ANALYST	Lucero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	Moderate to Substantial	Moderate to Substantial	Recurring	Local Governmental Entities

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minimal			Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act and Capital Outlay Appropriations

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)
New Mexico Finance Authority (NMFA)
Economic Development Department (EDD)

SUMMARY

Synopsis of SFC Amendment

Senate Finance Committee amendment to House Bill 377 amends Section 3-63-5 NMSA 1978 of the Business Improvement District Act to increase the type of residential property that may be included in the fee assessment schedule of the district.

The amendment clarifies that residential real property "that is not multifamily residential rental property with at least four units or homeowners association of multifamily ownership properties" shall not be included in the fee schedule. In addition, the amendment exempts residential real property that became eligible for a business improvement benefit fee assessment after the district was created, unless district ordinances are amended to include the new business or property after notice is provided and a hearing is held.

Synopsis of Original Bill

House Bill 377 amends Section 5-10-4 NMSA 1978, the Local Economic Development Act (LEDA), to increase the total amount of public money that could be expended and the value of credit that could be pledged by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act from five percent (5%) to ten percent (10%) of their annual general fund expenditures in that fiscal year.

FISCAL IMPLICATIONS

The SFC amendment would provide additional revenue to business improvement districts by including larger commercial residential multifamily properties in the fee schedule of a district.

HB377 would allow local governing entities to increase the amount exempted from the "anti-donation clause" from 5 to 10 percent of the annual general fund expenditures of the governing entity.

HB377 would allow for more and larger economic development projects to receive monies from the state in any given year resulting in a moderate to substantial increase in revenues to local government entities from capital outlay appropriations.

There would be a minimal additional operating budget impact associated with updating statutes, rules, regulations, etc.

SIGNIFICANT ISSUES

A business improvement district (BID) is a public-private partnership in which businesses in a defined area elect to pay an additional tax in order to fund improvements in the district. BIDs typically provide services such as street and sidewalk maintenance, public safety officers, park and open space maintenance, marketing, capital improvements, and various development projects. The services provided by BIDs are a supplement to the services already provided by the municipality. The SFC amendment would expand BIDs to include multifamily commercial residential properties.

In 1994 New Mexico voters approved an amendment to Article IX, Section 14 of the New Mexico constitution, the "*anti-donation clause*", to allow local or regional governments to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses. The amendment was implemented into statute by Section 5-10-1 through 5-10-13 NMSA 1978, the Local Economic Development Act (LEDA). Under LEDA a local entity could provide land, buildings, or infrastructure for facilities to a private entity without violating the "*anti-donation clause.*"

Prior to providing public support, local government entities must adopt by ordinance an economic development plan outlining its economic development goals and strategies. The plan may be specific to a single economic development goal or strategy or may include several goals or strategies. Once a local community has passed a LEDA ordinance, then a qualifying business can apply for project consideration. Multiple governmental units can combine under a joint powers agreement to develop a regional economic development plan; however, projects must be approved by all of the government units.

The local government reviews an entity's application based on provisions of the economic development plan. The application is reviewed for the entity's financial and management stability, demonstrated commitment to the community, a cost-benefit analysis of the project and any other necessary information. Once approved, the qualifying entity and the local government enter into a project participation agreement which sets out the contributions to be made by each party, the security provided to the local government by the qualifying entity, a schedule for project development and completion, and provisions for performance review and actions to be taken for unsatisfactory performance

The LEDA allows municipalities and counties to expend funds on economic development projects. The law also stipulates how much can be spent, what constitutes an economic development project and what is a qualifying entity. The local government unit must also have adopted by ordinance an economic development plan or a master plan with an economic development component. The unit must follow certain procedures when pursuing economic development projects. Municipalities and counties are also allowed to enter into joint power agreements.

64 New Mexico communities have now passed a Local Economic Development Act (LEDA).

OTHER SUBSTANTIVE ISSUES

Several of the most recent LEDA approved projects have been high profile and located in Bernalillo County including Schott Solar, and Fidelity. By increasing the limitation of general fund expenditures from 5 percent to 10 percent, HB377 could increase the number and value of projects approved in localities where the value of general fund expenditures is larger.

A departure from previous capital outlay procedures, through the LEDA process, capital outlay appropriations can be used for direct and <u>indirect</u> assistance to qualifying businesses under Section 5-10-3 NMSA 1978 which defines what an "economic development project is." This allows appropriations to be used for professional services contracts and loan guarantees that may not result in public ownership in the assets of a project. The resultant risk to the state is an inability to recoup or clawback funds should a project or qualifying entity fail or leave the state.

AMENDMENTS

The bill could be amended to allow 10 percent of general fund expenditures in counties with a lower population, or per capita income, etc to allow smaller, rural, and frontier governmental entities to provide a greater incentive in those areas. Larger more urban areas could remain at 5 percent.

DL/svb