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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/02/09  
 SPONSOR HBIC LAST UPDATED 03/13/09 HB CS/572/aHTRC/aHFI#1  
 SHORT TITLE Solar Energy Improvement Special Assessments SB \_\_\_\_\_  
 ANALYST Lucero

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	Indeterminate	Indeterminate	Recurring	County Governments

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	Minor	Minor			Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Taxation and Revenue Department (TRD)
- Public Regulation Commission (PRC)
- Attorney General's Office (AGO)
- Energy, Minerals and Natural Resources (EMNRD)

### SUMMARY

#### Synopsis of HFI #1 Amendment

House Floor Amendment #1 House Taxation and Revenue Committee (HTRC) amendment to HBIC substitute for House Bill 572 expands the counties that are eligible to participate to all counties including an H class county.

#### Synopsis of HTRC Amendment

House Taxation and Revenue Committee (HTRC) amendment to HBIC substitute for House Bill 572 adds that commercial properties may be a part of the solar energy improvement special assessment.

The amendment also clarifies that the lien on the property shall not exceed the annual amount of the special assessment imposed on the property.

Synopsis of Original Bill

House Business and Industry Committee (HBIC) Substitute for House Bill 572 enacts the “Solar Energy Improvement Special Assessment Act” the purpose of which is to increase access, by county residents, to residential solar technology by facilitating financing for eligible solar improvements. The bill would apply to Class A counties.

The bill defines ““eligible solar energy improvement” as a photovoltaic or solar thermal system installed on residential property”.

The bill would allow a board of county commissioners to adopt, by ordinance, a “solar energy improvement special assessment” on a single-family residential property within the county if the owner of the property requests the assessment. The voluntary assessment will be collected at the same time and manner as all other property taxes.

The amount of the solar energy improvement special assessment on a property shall not be more than forty percent of the of the assessed value of the property, and be the amount necessary to pay the costs of the eligible solar energy improvements (principal); the costs of the financing of the improvements (interest); and administrative fees, provided that the administrative fee does not exceed 10 percent of the total financing amount. While the special assessment is in effect, a lien on the property will be in effect and the county shall have “co-equal” priority with other property tax liens. The assessment will be removed when the underlying debt has been satisfied.

Proceeds from a solar energy improvement special assessment on a property shall be disbursed by the county treasurer solely for the purpose of financing the solar energy improvements on that property and paying the applicable administrative fees to the county. The county treasurer must enter into an agreement with a “solar energy improvement financing institution”, providing financing to the property owner specifying the procedures by which the treasurer shall transfer the revenue from the assessment to the institution. The agreement shall specify that the county is not liable, in any way, for the debt of the property owner.

The bill requires the Financial Institutions Division of the Regulation and Licensing Department to promulgate rules for the certification of financial institutions, or other entities, as solar energy financing institutions. The institution must be a member of the Federal Deposit Insurance Corporation or National Credit Union Association.

The bill prohibits a county from establishing additional criteria for participation of property owners in the special assessment beyond those set forth in the new act.

The county assessor must verify that the property owner requesting the solar energy improvement special assessment is the owner of record of the property with respect to which the solar energy improvement special assessment will be levied and that there are no delinquent taxes on the property.

## **FISCAL IMPLICATIONS**

The HTRC amendment limits the lien on the property to the annual amount of the special assessment imposed on the property. Legislation in other states, counties, or cities is split on the issue of how to register the lien. In Berkeley, the lien is equal to annual amount of the special assessment (same as HTRC amendment). However, the California Legislature (Assembly Bill 811) specified that the special assessment shall constitutes a lien against the lots and parcels of land on which they are made, until they are paid – meaning the full amount is recorded but reduced each year as the loan/assessment is paid off.

According to the Taxation and Revenue Department (TRD), this bill has no fiscal impact to state revenues or general fund revenues. The proceeds from the administrative portion of the special assessment will be used to pay the necessary costs of county governments for the period in which the assessment is imposed.

There may be a minor fiscal impact to EMNRD and counties for staff time and effort to develop the guidelines required in the Act.

The bill allows an alternative method to finance solar energy improvement through the use of a county's taxing authority, and its lien priority, to enforce that debt. In this way, the financing becomes more attached to the physical property rather than to the property owner.

## **SIGNIFICANT ISSUES**

This bill extends a new type of solar energy financing option to residents of class A counties if that county chooses to participate in the financing option. Similar solar financing options in other states have been based on a Financing Initiative for Renewable and Solar Technology (FIRST) model, initiated in Berkeley, California in 2007; which allows property owners to incorporate the price of a residential solar installation into a 20-year increased property tax assessment. The FIRST model authorizes a city or county to issue municipal bonds to cover the capital costs of the renewable energy project. The FIRST model represents a breakthrough in residential solar deployment by removing a key barrier to solar adoption: high upfront capital costs. The FIRST model matches a capital-intensive purchase with a long-term payment plan that alleviates much, if not all, of the up-front capital expense that is a barrier to renewable energy conversion/installation.

According to Energy, Minerals and Natural Resources Department (EMNRD), financing mechanisms are needed to support expansion of solar energy deployment in New Mexico. Residential property owners have incentives available in New Mexico to offset capital costs (e.g., solar tax credits) and to be compensated for green energy production (e.g., utility interconnection, renewable portfolio standards), but complementary financing mechanisms have not been implemented. The high capital costs of solar technologies are only partially offset by existing incentives and the remaining capital costs can still be significant to homeowners. Not all homeowners may be able or willing to refinance an existing mortgage or obtain a bank loan, often because they have already used those avenues for other home improvements. The solar energy improvement special assessment offers a convenient way through a separate financing mechanism where a payment process is already established.

## **PERFORMANCE IMPLICATIONS**

This voluntary, opt-in property tax assessment model has the potential to increase the number of residential solar systems. In turn this may make it easier for regulated electric utilities to comply with the Renewable Energy Act and PRC rules requiring that a portion of the Renewable Portfolio consist of distributed generation resources.

## **ADMINISTRATIVE IMPLICATIONS**

According to EMNRD, HB 572 will require administrations of the program by the counties, and coordination among the county, EMNRD and the FID. HB 572 does not provide for inspection to ensure the equipment is adequate and properly installed. If such inspections are done by a state agency it will dramatically increase that agency's operating costs.

## **RELATIONSHIP**

Relates to HB893

## **TECHNICAL ISSUES**

The bill allows a property owner to impose a special assessment on the owner's property to pay for solar energy improvements to the property. The special assessment is to be collected as a property tax. The bill's effective date is July 1, 2009, well into this year's property tax schedule, but before property tax is due. It does not seem probable that the ordinance, certifications and documentation could be completed in time for inclusion of the assessment in this year's property tax bill.

The bill does not address what will happen if the residence is sold before the assessment if paid off and who would be able to claim the solar investment tax credit (ITC). Currently a home owner who installs solar is allowed to claim a 30 percent credit on her federal tax returns. Other states that have passed ordinances and other solar advocates are requesting clarification from Internal Revenue Service (IRS) on the ITC. While this is a separate issue from this bill, jurisdictions should be aware that currently there is no clarity on how the solar ITC will interact with the property tax assessment.

## **OTHER SUBSTANTIVE ISSUES**

The EMNRD Energy Conservation and Management Division (EMNRD-ECMD) is able to provide solar system and installation guidelines to county boards authorizing the solar energy improvement special assessment. EMNRD-ECMD likely would apply the guidelines established in the Solar Market Development Tax Credit, used statewide, to the counties' special assessment programs.

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