

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 285

51st Legislature, 1st Session, 2013

Tracking Number: .190796.1

Short Title: Local Gov't Higher Ed Facility Property Tax

Sponsor(s): Senator Richard C. Martinez and Others

Analyst: Ian Kleats

Date: March 5, 2013

Bill Summary:

SB 285 adds a new section to the *Property Tax Code* authorizing certain counties, subject to election by qualified electors, to impose a property tax of up to 1.5 mills for certain expenses relating to county higher education facilities. Among its provisions, the bill would:

- require that the tax proceeds be used for the purpose of acquiring, constructing, renovating, or improving a facility, including the acquisition or improvement of land for that facility, of a four-year postsecondary institution located in the county; and
- limit the imposition of the tax to no more than eight years.

Other provisions of SB 285:

- define eligible counties as class B counties with a population of no less than 40,000 and no more than 45,000 according to the last federal decennial census;
- specify that the mill levy is not subject to yield control provisions of the *Property Tax Code*; and
- prohibit a county from using the tax proceeds to meet its county-supported Medicaid obligations.

Fiscal Impact:

SB 285 does not contain an appropriation. The bill also does not create any revenue impact in itself because imposition of additional property tax would be subject to voter approval.

Fiscal Issues:

The population range proposed by SB 285 of 40,000 to 45,000 results in a restricted subset of Class B counties, which otherwise would include 26 of New Mexico's 33 counties. The Taxation and Revenue Department (TRD) bill analysis notes that only Rio Arriba County falls within this definition, being a Class B county with a population of 40,339 according to the Department of Finance and Administration records.

According to the TRD analysis, if the maximum 1.5 mill rate is approved by the voters, based on Rio Arriba County's net taxable value of \$1.65 billion in taxable year 2012 and assuming growth in the property tax base of 6.22 percent each year thereafter (6.22 percent was the growth rate of

that county’s net taxable value from 2011 to 2012), the estimated revenue available for higher education facilities in Rio Arriba County would be:

Potential Revenue Available to Rio Arriba County*				R or NR**	Fund(s) Affected
FY 13	FY 14	FY 15	FY 16		
0	\$2,631	\$2,794	\$2,968	R	Higher Education Facilities

* In thousands of dollars. Parentheses () indicate a revenue loss.

** Recurring (R) or Nonrecurring (NR).

Because the imposition of a mill levy under the provisions of SB 285 would require a general or special election, it is uncertain whether a county could hold such an election and impose the tax prior to FY 15, but it may be possible.

Substantive Issues:

Because of the restrictive definition of “county” in the bill, only Rio Arriba County would qualify to impose the property tax. Four-year postsecondary institutions residing in that county include Northern New Mexico College and the Española branch campus of the New Mexico Highlands University.

In the spring of 2011, the New Mexico Higher Education Department brokered an agreement between the department and all of the state’s higher education institutions placing a two-year moratorium on the construction of new branch campuses and new buildings on existing campuses. With the moratorium expiring this year, construction could begin again.

Proceeds of the mill levy authorized by SB 285 could be used to service debt issued pursuant to the *Institution Bond Act* and the *College District Tax Act*. Bonds issued under those provisions may be used for capital improvements to higher education facilities, including the uses specified within SB 285.

Technical Issues:

SB 285 limits the imposition of the property tax to eight years. However, no provisions limit a board of county commissioners from adopting subsequent resolutions, then being approved by the voters of the county, which would allow the tax to be imposed for multiple consecutive eight-year periods.

On page 1, line 25 and page 2, line 1, it is unclear whether “four-year post-secondary institution located in the county” could include a branch campus of an institution with its primary campus residing outside of the county. Because a branch campus is located in the county eligible to impose the tax, this issue could warrant additional clarification.

In addition, the TRD analysis highlights one possible issue:

“The bill limits the imposition of the new tax to no more than 8 years. If the proposed purpose of ‘acquiring, constructing, renovating or improving a facility of a four-year post-secondary institution’ and ‘the acquisition or improvement of land’ is proposed to be done with revenue bonds tied to this new source, then 8 years is not long enough in most instances for a new bond issue. A minimum of ten years or longer would be more appropriate.”

Committee Referrals:

SEC/SFC/HEC/HAFC

Related Bills:

HB 593 *County Higher Ed Facility Property Tax* (Identical)