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FISCAL IMPACT REPORT

ORIGINAL DATE 02/20/13

SPONSOR Strickler LAST UPDATED _____ HB 544

SHORT TITLE County Clerk Filing Fee Cap SB _____

ANALYST Cerny

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	(Indeterminate, Possibly Significant)	(Indeterminate, Possibly Significant)	Recurring Loss of Revenue	County Clerk Recording and Filing Fund

(Parenthesis () Indicate Revenue Decreases)

Conflicts with SB 484

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
Association of County Clerks (ACC)

No Response

Association of Counties

SUMMARY

Synopsis of Bill

House Bill 544 (HB 544) amends Section 14-8-15 NMSA 1978, that would cap the county clerk filing and recording fee at \$300 per recorded document, regardless of the number of required entries to the county recording index.

FISCAL IMPLICATIONS

HB 544 does not have a fiscal impact on the General Fund but would result in potentially significant revenue decreases for county clerks.

Capping the filing and recording fee to no more than \$300 for each document will reduce the revenue generated by the county clerks. These fees support the county clerk recording and filing

fund which may be used for acquiring and maintaining recording and other equipment, purchasing supplies and for staff training and travel costs.

A small survey of county clerks by the Department of Finance and Administration (DFA) showed that, with the \$300 fee cap, revenues are estimated to decline as follows:

- San Juan County, \$3,400 annually (based on 7 months of data)
- Lea County, \$8,300 annually (based on 6 months of data)

SIGNIFICANT ISSUES

The Laws of 2011, Chapter 134, Section 4 (SB239), imposed a fee of \$25 for each document filed or recorded by the county clerk and an additional \$25 fee for each additional block of ten or fewer entries to the county recording index. These standard fees have created consistency across all counties. The fees became effective July 1, 2011, and have been adopted by all 33 county clerks.

The DFA interviewed a few of the county clerks (Santa Fe, Eddy, and Lea counties), and the general opinion is that the cap will not affect the recording of mortgage documents as most of those documents are typically charged a filing and recording fee of under \$100. There are some real estate documents involving subdivisions whereby each lot is indexed separately that have been charged a recording and filing fee of up to \$500 in Santa Fe County. However, there are not very many subdivision documents filed annually.

The documents most affected by the cap are those dealing with oil and gas leases, and mining claims. These documents are usually very detailed and involve multiple owners and legal descriptions. The filing and recording fee for these types of documents can sometimes be over \$1,000 under the current fee structure.

The bill appears to be impacting only a small percentage of filers. For example, for a six month period, Lea County filed and recorded 6,605 documents. Of those documents, only 7 were charged a fee over \$300.

PERFORMANCE IMPLICATIONS

The volume of information that must be indexed separately on oil and gas lease documents creates a lot of work for the county clerks. By capping the filing and recording fee to no more than \$300 per document, the fee may not cover the actual document processing cost.

CONFLICT

Conflicts with SB 484 that proposes a \$100 cap on filing fees.

ALTERNATIVES

An alternative suggested to HB 544 is to set up a task force in collaboration with the New Mexico county clerks affiliate to study the fee structure and make recommendations for creating a fee structure that matches the cost of the work involved for recording various types of documents.