

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/13

SPONSOR Padilla LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Property Tax Partial Payment Collection SB 430

ANALYST Smith

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
	Minimal				Recurring	Property Tax

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 430 amends Section 7-38-62 NMSA 1978 of the Property Tax Code to require the Taxation and Revenue Department (TRD) to authorize county treasurers to act as department agents in accepting payments of taxes, including partial payments and payments pursuant to an installment agreement entered into pursuant to Section 7-38-68 NMSA 1978.

**Effective Date:** July 1, 2013

### SIGNIFICANT ISSUES

The TRD supports the concept of partial payments. The Property Tax Division (PTD) supports this change and is currently undertaking a rule change to 3.6.7.71 NMAC to permit county treasurers to accept partial payments. This regulation change came about as a compromise between the Department's PTD staff and the county treasurers. The change will be considered at a public regulation hearing scheduled for March 14, 2013.

The PTD and the New Mexico Association of Counties and their county assessors and treasurers affiliates have worked throughout 2012 to resolve our issues in the administration of partial

payments, the turnaround time for installment agreement payments to counties dealing with delinquent property taxes. This bill runs counter to those ongoing meetings. The TRD believes this bill represents a fundamental shift in the state and county treasurer roles dealing with delinquent property tax. It requires the TRD to authorize county treasurers to act as agents. However, the department needs the ability to revoke this authority in situations where the county treasurer refuses to enforce the department's directives. Section 7-38-62 already instills the responsibility and exclusive authority on the department to collect delinquent taxes. Requiring the department to give the county treasurers this authority is in conflict with the exclusive authority of the department. For this reason, the language in this section on authorizing county treasurers to act as agents should remain permissive as "may" and not changed to "shall".

On the issue of authorizing the county treasurers to accept payments for installment agreements, the negotiation and enforcement of installment agreements occurs completely within the TRD. Therefore, the authority to accept payments on installment agreements needs to remain with the TRD. The tracking of payments and the filing of injunctions and liens related to missed payments is a function that is currently handled completely by the TRD and its Legal Services Bureau and should remain there. The county treasurers do not have the access to taxpayer payment information or the ability to file tax liens, as the department currently has. Therefore, the PTDs ability to accept payments, ensure enforcement, negotiate terms of the agreements, etc., is severely handicapped and will result in more inefficiency and potentially more cost for taxpayers in tracking down delinquent payments and ensuring collection.

## **PERFORMANCE IMPLICATIONS**

The TRD opposes this bill.

A potential negative fiscal impact could result due to inefficiencies that result from the implicit requirement to track down delinquent payments and ensuring collection. The PTD anticipates decreased delinquent property tax collections if this legislation becomes effective. The PTD would lose its ability to enforce delinquent property tax collections in accordance with the Property Tax Code. The PTD anticipates increased litigation and decreased delinquent property tax collections if this legislation becomes effective.

Given all the issues address above, the department believes that the bill is unnecessary and will result in additional administrative costs and confusion in the collection of taxes.

## **TECHNICAL ISSUES**

The TRD believes that this legislation conflicts with Section 7-38-62, which states that after the receipt of the delinquency the department assumes full and sole authority for the collection of all delinquent taxes due in connection with the delinquent accounts appearing on that list. The department also assumes full responsibility to enforce collections in accordance with the requirements of the Property Tax Code. Currently, the department "may" authorize county treasurers to accept payments in full on behalf of the department. This appointment is discretionary and can be denied or revoked in part or in full by the director if a county is not compliant with the conditions of their agency or the requirements set forth in the Property Tax Code.

The proposed amendment fails to change language in this section that currently states treasurers would accept "payments of taxes, penalties, interest or costs" to "payments of taxes, penalties,

interest and costs”. Treasurers are technically not properly collecting as our agent if they are not collecting the same amounts we would if we accepted the payment. This change has been made in the proposed rule discussed in the “Other Issues” section below.

Installment Agreements are contracts between a delinquent taxpayer and the State of New Mexico. Suggesting that a third party should be involved in the collection process was not anticipated in statute and has several technical drawbacks. As it stands, the State of New Mexico must ensure that the taxpayer is compliant with the terms of the contract in order to provide the statutory and constitutional protections available to them. Many county treasurers systems are not structured to accommodate installment agreements. Since there are only 68 installment agreements in effect at the time of this writing, it wouldn’t be cost effective to make the computer changes necessary across the state. Finally, adding another tier of bureaucracy to the process does not benefit the taxpayer.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

SS/svb:blm