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FISCAL IMPACT REPORT

SPONSOR Wooley **ORIGINAL DATE** 01/29/15 **HB** 49/aHGEIC/aHWMC/a
LAST UPDATED 02/17/15 **HB** HAFI#1

SHORT TITLE County Notices By Email **SB** _____

ANALYST Cerny

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	(Indeterminate)	(Indeterminate)	(Indeterminate)			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance & Administration (DFA)
 Taxation & Revenue Department (TRD)

Not Responding

Association of Counties

SUMMARY

Synopsis of House Floor Amendment # 1

House Floor amendment number 1 to House Bill 49 would add subsection C on page 2, which states an email address provided by a homeowner and retained by the county assessor would not be a valuation record but rather would be a confidential record not subject to the Inspection of Public Records Act.

Synopsis of HWMC Amendment

The House Ways and Means Committee amendment to House Bill 49:

1. Strikes House Government, Elections and Indian Affairs Committee Amendment
2. On page 2, line 8, before the period, inserts "; provided that the notice is consistent with the requirements of the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act".
3. On page 2, line 11, after "mail", inserts "to the county assessor and the county treasurer".

4. On page 2, line 12, after "mailing", inserts "done only by the county assessor or county treasurer,"

These changes would ensure that emails to property owners conform to current statute with regard to electronic authentication and electronic transactions; would require that property owners' revocation of requests to receive notices by email are sent to either the county assessor or country treasurer; and also clarifies that whenever the Property Tax Code specifies that notifications or mailings must use other than first class mail, notice is effective if given in accordance with the provisions of the code, but only when done by either the county assessor or country treasurer.

Synopsis of HGEIC Amendment

The House Government, Elections & Indian Affairs Committee amendment to House Bill 49 deletes the word "If" on page 2, line 2 and inserts "Provided that electronic notification is consistent with the requirements of 15 U.S. C. Section 7001, if..."

The change would ensure that the statute is not in conflict with any statute, regulation, or other rule of law with respect to any transaction in, or affecting, interstate or foreign commerce.

Synopsis of Bill

HB 49 adds new language to Section 7-38-84 NMSA 1978 to allow a property owner the option of receiving notices via electronic mail rather than by first class mail pursuant to the property tax code until such request is revoked in writing by the property owner. Property owners may elect to receive notices via electronic mail by notifying their county assessor in writing or by electronic mail.

The bill also allows that whenever the Property Tax Code requires a method of notification other than by regular first class mail, the notice request by the property owner will also allow for the use of electronic notice, as long as it is in accordance with the provisions of that code.

Effective date is July 1, 2015.

FISCAL IMPLICATIONS

This bill may allow for a cost saving to county assessors or county treasurers by not having to prepare written notices and pay for first class postage for mailing the notices.

The number of property owners who would make such a request to receive electronic notices is indeterminate, and may vary by county based on county outreach efforts to encourage electronic notices, therefore the cost savings are indeterminate as well.

SIGNIFICANT ISSUES

This method of communication serves to take advantage of modern technology, via the internet, to provide an option to the property owner to receive notices from the county assessor or county treasurer as opposed to using regular first class mail.

HB 49 may reduce the time needed to respond to such notices as well as improve the contact

database for the county assessor and county treasurer, especially when there is a change in property ownership.

Even though the property owner has requested email notifications, there may be no way to know that the message has been received. Perhaps, as a safeguard, a reply by return email should be required.

TRD analysis raises the following issues:

TRD is under constant pressure to meet due process, particularly notice, requirements. Electronic notice would pose legal challenges for Property Tax Division (PTD) when it leads to enforcement and collection of delinquent property. Notice should always be verifiable and in a form calculated to give the most effective notification possible to taxpayers.

PTD is concerned that changing to electronic mail could result in undeliverable certified letters in the delinquent collection process or conflicting requirements when electronic notice is specified and certified mail is required.

This legislation could contribute to identity theft and raises security and taxpayer confidentiality concerns. The availability of email databases and the ease with which fraudsters can establish misleading email addresses are at the root of this concern.

PERFORMANCE IMPLICATIONS

HB 49 may allow for county assessor and county treasurer notices to be distributed to property owners to be processed in a more efficient manner.

ADMINISTRATIVE IMPLICATIONS

PTD is most concerned with the ability of notices sent by electronic means under this legislation to meet the requirements of legal due process. The stipulation that the county assessor or the county treasurer “may thereafter provide such notices to the property owner utilizing an electronic mail” might be confusing to the taxpayer if there isn’t consistency between multiple counties in their practices as well as between the assessor and treasurer in the same county.

TECHNICAL ISSUES

TRD analysis states that this legislation should stipulate that:

- Counties retain mailing address information if they convert to electronic mail;
- When the change is made from paper to electronic mail there should be a specified transition period where both forms of notice are used;
- Email should be the primary means of communication when the taxpayer sends the county additional notice asking to discontinue paper mail;
- If property ownership changes, the language should allow for immediate revocation of the electronic notices upon change of ownership since the assessor/treasurer is not going to have the electronic address required to send electronic notices to the new owner.

House Bill 49 – Page 4

PTD believes that the tax roll, Section 7-38-35 NMSA 1978 should contain information that notices are sent electronically for some taxpayers.

Also, that the legislation should reference all of the notices mailed by the county assessor and treasurer:

7-38-20 NMSA Notices of Valuation: There is no mention of NOVs being mailed in “form and content prescribed by the Director” per 3.6.7.29

7-38-36 NMSA Property Tax Bills

7-38-21 NMSA Protests and Election of Remedies: These statutes extend through 7-36-30 and there are lots of notices and scheduling conditions that have to be met.

7-38-38 NMSA Property Tax Refunds

7-38-51 Notification to Property Owner of Delinquent Taxes

7-38-54 Demand Warrants

7-38-57 Notice of Sale of Personal Property

7-38-60 Notification to Property Owners of Delinquent Taxes

7-38-76 Property Subject to Property Taxation but Omitted from Property Tax Schedules in Prior Years

CAC/bb