F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 1/27/15
SPONSOR Garcia, M **LAST UPDATED** **HJR** 6

SHORT TITLE Exempt Low-Income Disabled from Property Tax **SB**

ANALYST Graeser

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$200.0		$200.0	Nonrecurring	General Fund

(Parenthesis ( ) indicate expenditure decreases)

The cost to the Secretary of State's office in conducting an election at the same time as a general election is shown.

The cost of a special election just for the question is considerably more. The bill permits either a general election of a special election.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Governor's Commission on Disability (GCD)
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Joint Resolution 6 proposes an amendment to Article 8 of the State Constitution to exempt from property taxation a principal residence, including the joint or community property of married individuals, of a head of household over 75 years of age whose household modified gross income is $15,000 or less. It calls for the amendment to be submitted to voters at the next general election or special election called for that purpose. The resolution also proposes that the $15,000 income ceiling be indexed for inflation in any enabling legislation.

There is no effective date of the act – assume June 19, 2015. Any enabling legislation should conform to the regular property tax year, which begins January 1 each year.

FISCAL IMPLICATIONS

This proposed constitutional amendment has no direct fiscal impacts, except for the costs of conducting an election.

However, if the joint resolution passes and is approved by the voters, it will have a small impact on beneficiaries and a more substantial effect of shifting tax burden between advantaged and disadvantaged taxpayers. In which case, this implementing legislation may not be counter to the LFC tax policy principles of adequacy, efficiency, accountability and equity.

Generally, estimating the cost of tax expenditures is difficult. In the case of Property Tax exemptions, data must be gathered specially from each of the 33 County assessors. While some of the assessors' offices are fully automated, some of the smaller counties still use manual processes. It will be difficult.

TRD reports the following:

> TRD can't estimate the fiscal impact of this legislation because tax confidentiality laws prevent county assessors from accessing records that would allow them to link real estate assessments with the most recent Personal Income Tax returns filed by primary residents. If that were possible, assessors could model the shift of property tax obligations to other residential taxpayers by converting taxable income to the Income Tax Act definition of Modified Gross Income and trending the known ages of identified residents to allow for future reductions.
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> Any decrease in net taxable value results in an increase or shift of property tax obligations. Voter approved mill rates, constitutionally protected debt, and the mill rates at maximum imposed rates wouldn't increase. Other rates would shift or increase to compensate for the loss in the property tax base."

SIGNIFICANT ISSUES

Using the 2013, American Community Survey data, we can estimate approximately 15,000 New Mexico homeowners are 75 or older, have an annual money income of $15,000 or less and would possibly qualify for the provisions of this constitutional amendment. About two-thirds of the general adult population owns their own homes. The medium home price in New Mexico is about $160,000. The average 2014 mill levy is 29.15 mills. If this resolution passes, the implementing legislation will create an annual revenue impact will be on the order of $14 million. Because of yield control and the way debt rates are set, the cities, counties, school districts, special districts and the state general obligation bond fund, will experience an insignificant revenue loss. What will happen however is that virtually the full amount of exemptions ($14 million in tax obligations) will be shifted from the advantaged class of taxpayers to the remaining population.

TRD points out that this legislation doesn't restrict eligibility on the basis of assets or property value. While the likelihood of abuse at the $15,000 level is remote, it is possible to structure finances to shield net worth and real estate value when the only threshold for eligibility is recurring income alone.

TECHNICAL ISSUES

TRD points out that this legislation stipulates eligibility by "annual household modified gross income", but the term is undefined. Modified gross income language (Section 7-2-2 NMSA 1978) is used in other property tax statutes, like Section 7-36-21.3 NMSA 1978. Adjusted gross income is frequently cited in FIRs and publications as a more appropriate measure because it is defined in the Internal Revenue Code (Section 62).

TRD further notes that the New Mexico Constitution (Article 8, Section 1, B) allows the current limit on residential valuation to account for owner-occupancy, age and income. This legislative proposal touches on all three current qualifications.

ADMINISTRATIVE AND COMPLIANCE IMPACT

LFC staff note that this will be a laborious process for county assessors. Each taxpayer must somehow prove both modified income and age status. Any implementing legislation pursuant to this constitutional amendment will have substantial difficulty establishing fair and accurate procedures for claiming this exemption.

TRD notes the following administrative impacts:

> "This resolution would have a similar administrative impact to current property tax exemptions. This exemption would be administered like the limitation on increases for properties that are owner occupied by low-income age sixty-five or older homeowners (Section 7-36-21.3 NMSA 1978). Taxpayers would need to apply for the exemption with their County Assessor."
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> "County Assessor's offices would be expected to develop a standardized form and assist taxpayers through the application process. This would require review of taxpayer income statements based on age, income and residency qualifications. It would add administrative overhead to county assessment practices, but it wouldn't be burdensome because of the relatively low proportion of taxpayers and households with income equal or less than $15,000."
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> "Because constitutional amendments become effective when they are passed by the voters, the timing could conflict with the making changes for the current tax year. January 1 is the valuation or property tax lien date (Section 7-38-7 NMSA 1978). April 1 (Section 7-38-20 NMSA 1978) is the date by which County Assessors are required to mail their Notices of Value to their taxpayers. Having said that, other property tax exemptions have been successfully enacted and they would likely apply to the following property tax year."

PERFORMANCE IMPLICATIONS

If the constitutional amendment is approved by the voters, the LFC tax policy of accountability would <u>not</u> be met unless the enabling legislation directs TRD to assemble the data from the county assessors and report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the exemption and other information to determine whether the exemption deduction is meeting its purpose.

RELATIONSHIP

House Joint Resolution 6 is related to House Joint Resolution 7, which proposes an amendment to Article 8 of the state constitution to allow a property tax exemption for 100 percent disabled persons with an annual income of fifteen thousand dollars ($15,000) or less annually.

LG/bb