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## FISCAL IMPACT REPORT

**SPONSOR** Sharer **ORIGINAL DATE** 2/11/15  
**LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_  
**SHORT TITLE** Installments for Delinquent Property Taxes **SB** 104  
**ANALYST** Malone

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 Property Tax Division (PTD)  
 New Mexico Association of Counties (NMAC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 104 amends Section 7-38-62 NMSA 1978 to allow the TRD to authorize county treasurers to act as its agents in accepting delinquent payments of taxes, penalties, interest, or costs due to the department, including payments made pursuant to an installment agreement authorized by Section 7-38-68.

### FISCAL IMPLICATIONS

No fiscal implications.

### SIGNIFICANT ISSUES

TRD believes that this legislation conflicts with the following sections of the Property Tax Code and the Department of Finance and Administration (DFA) Treasurer's Regulations:

- 1) 7-38-42:
  - a. (A) This statute hasn't been addressed. It precludes county treasurers from collecting delinquent property taxes though we have regulations now that allow treasurers with agency to accept partial payments. "The county treasurer has the

responsibility and authority for collection of taxes and any penalties or interest due under the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978] except for the collection of delinquent taxes, penalties and interest authorized to be collected by the department under Section 7-38-62 NMSA 1978.”

- b. (B) “Property taxes, penalties and interest collected shall be receipted and accounted for in accordance with law and regulations of the department of finance and administration.”
- 2) 7-38-62: After the receipt of the tax delinquency list, the department has the responsibility and exclusive authority to take all action necessary to collect delinquent taxes shown on the list.
- 3) DFA Regulations: 3.6.50.15 Distribution of property taxes, penalties and interest:
  - a. (A) The treasurer shall distribute the receipts from property tax collections to each governmental unit. All interest and penalties collected shall be deposited in the county general fund without regard to the tax year for which it was paid, other than as an agent of the taxation and revenue department under Section 7-38-62 NMSA 1978.

NMAC maintains that the language is permissive, stating “the department **may** authorize county treasurers to act as its agents in accepting payments of taxes, penalties, interest or costs due to the department, including payments made pursuant to an installment agreement authorized by Section 7-38-68 NMSA 1978”.

Several regulations would need to be amended if passed and NMAC would work with and support TRD PTD in creating an administrative avenue that would make sense for the counties, the taxpayers and PTD. PTD has cited some technical issues with the county treasurer’s computer systems. NMAC believes that although there are a variety of technical differences between the various counties, the counties can work with PTD to create a process that can enable taxpayers to make payments on an Installment Agreement at the local county treasurer’s office.

## **ADMINISTRATIVE IMPLICATIONS**

Installment agreements are a contract between the State of New Mexico and a taxpayer whose account has been transferred to the Taxation and Revenue Department on the delinquency list. The installment agreement, while instituted under Section 7-38-68 NMSA 1978, refers to the distribution process outlined by Section 7-36-71 NMSA 1978. This gives the department the ability to place installment agreement payments in a suspense fund. County treasurers do not have this ability. Any payments they receive are required to be receipted and applied to the oldest year of delinquency first according to the DFA Regulations cited in Section 7-38-42 (B) NMSA 1978, and in that same statute under Section C. Currently, PTD segregates installment agreement payments in suspense although PTD has agreed to reimburse complete year base tax payments when they accrue to that level.

PTD has had recurring problems with county treasurer’s computer systems applying current year tax payments to the oldest delinquent tax year, even though those delinquent tax years are covered by an installment agreement. This has the potential to default an active installment agreement. The ability to selectively breach the suspense fund of an installment agreement will make the problem more frequent and worse. Compliance would require changes to DFA regulations, other sections of the Property Tax Code and county treasurer’s systems. NMAC suggests that this could be worked out.

CEM/bb