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FISCAL IMPACT REPORT

ORIGINAL DATE
 SPONSOR Lopez LAST UPDATED 03/04/15 HB _____

SHORT TITLE Atrisco Land Grant Land Regulation SB 639

ANALYST Graeser/Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance & Administration (DFA)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 639 amends the section of existing law which provides that statutes governing the operation and management of land grants apply to the Town of Atrisco Land Grant-Merced. The amendment repeals the current proviso that excepts real property which is owned by any person or entity other than the land grant from the regulatory jurisdiction of the Town of Atrisco land grant's board of trustees.

The effective date of this bill is July 1, 2015.

FISCAL IMPLICATIONS

No fiscal impact to the state is anticipated.

SIGNIFICANT ISSUES

DFA provides this background on the Atrisco land grant-merced:

The Atrisco land grant-merced is located in the Atrisco Valley, south of Albuquerque and lies within Bernalillo County, New Mexico. It is one of the oldest land grant-mercedes in New Mexico and was established in 1692. Federal patent was issued on May 5, 1905 and

the land grant had jurisdiction of approximately 83,000 acres.

During the 2011 Legislative Regular Session, HB 278 was enacted, making the Town of Atrisco land grant-merced a political subdivision of the State of New Mexico, pursuant to the general provisions governing land grant. See Section 49-1-5 NMSA 1978. Because of a land dispute and eventual sell-off of the land grant property that took place in 2006, when the political subdivision status was granted in 2011 the Legislature also included restrictions on land regulation by the newly created town of Atrisco land grant-merced.

Under current law, the Atrisco land grant-merced is governed by Section 49-1-1 through 49-1-18, except that the Atrisco board of trustees shall not have regulatory jurisdiction over, and the provisions of 49-1-18 NMSA shall not apply to or govern, any lands or interests in real property the title to which is held by any other person, including a public or private corporation or limited liability company. This restriction provides protection to any other property owner, including a private individual, a public entity or a private corporation.

DFA explains the impact of SB 639:

This bill would strike the language excluding regulatory jurisdiction by the board of trustees of the Atrisco land grant-merced when lands or real property interests are held by another party. This would have the effect of restoring the board of trustees regulatory jurisdiction over land and real property interests held by other parties.

Currently the majority of the Atrisco land grant property, which includes approximately 53,000 acres, is owned by Western Albuquerque Land Holdings (WALH), a holding company primarily owned by Barclay's Bank. The property was acquired by WALH through foreclosure from the previous property owners (Westland DevCo). WALH reports that this bill would jeopardize its property rights along with the property rights of other individuals whose properties were once a part of the original Atrisco land grant-merced.

The town of Atrisco land grant-merced does not own any common lands, and the intent of the bill may be to remove restrictions on land regulation and so the land-grant merced then can try to acquire the property from WALH.

OTHER SUBSTANTIVE ISSUES

DFA advises that in 2008, the State Board of Finance approved a dedication of the State's gross receipts tax increment to several Tax Increment Development Districts (TIDDs) formed by Bernalillo County in conjunction with developers Westland DevCo. Commonly known as "Suncal" or the "Upper Petroglyph" TIDDs, Westland DevCo planned to develop the property and pay for public infrastructure using state and county gross receipts tax (GRT)/property tax revenues dedicated to the TIDDs. However, the development was not started before Westland DevCo foreclosed. Current owners, WALH, plan to continue developing the land using the TIDD mechanism.

The legislature has never authorized the issuance of bonds in these TIDDs. DFA reports that WALH, the current owner of the TIDD land, has argued that it could "direct pay" for

infrastructure using GRT and property tax distributions to the TIDD absent legislative approval to issue bonds. DFA notes there is currently no clear legal decision from the courts whether this is the case.

A provision in the TIDD enabling legislation authorizes an imposition of a gross receipts tax increment attributable to the imposition of the state gross receipts tax within a district to be dedicated for the purpose of securing gross receipts tax increment bonds, subject to the agreement of the state board of finance. See Section 5-15-15(F), NMSA 1978. LFC staff interprets this to mean, as to the state GRT increment, that those monies may not be used directly to reimburse the developer for public projects, absent express authorization of the bonds by the Legislature. See Section 5-5-15-21, NMSA 1978.

LG/MD/bb