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FISCAL IMPACT REPORT

SPONSOR Trujillo CA/ Trujillo L ORIGINAL DATE 2/12/18 LAST UPDATED _____ HJR 14

SHORT TITLE Property Tax Valuation for Improvements, CA SB _____

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20	FY21	FY22		
	0.0	0.0	0.0	0.0	Recurring	GOBs, muni bonds, county bonds, school district bonds, special district bonds
		Unknown but negative	Unknown but negative	Unknown but negative	Recurring	Muni operating, county operating, school operating, School SB-9, special districts

Parenthesis () indicate revenue decreases

Note: this could be complex to administer and track if the abatement were authorized by a municipality.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Secretary of State (SoS)

SUMMARY

Synopsis of Joint Resolution

House Joint Resolution 14 proposes a temporary exclusion of property tax valuation increases related to increasing the number of dwellings on a property. The exclusion must be approved by the local municipality or county commission or council. The exclusion would be valid for up to seven years. This constitutional amendment would be presented to the voters at the next general election (November 2018) or at a special election prior to that date.

FISCAL IMPLICATIONS

In general, this proposal would have moderate impact on property tax rates or revenues. Bond rates are set to generate an appropriate amount of revenue to amortize bonds, thus, a substantial reduction for the developer of multi-unit residential property would be associated with a small increase in bond rates for all other (residential and non-residential) taxpayers. Residential and non-residential operating rates are generally subject to adjustment via “yield control.” The proposed exclusion would be for “net new value” in the first year, so would not affect the yield control reductions, but would be a proportion reduction for all operating jurisdictions equal to the deferred taxable value times the applicable operating (and yield controlled) tax rate. In subsequent years, however, the exclusion would be considered valuation maintenance and would affect yield control. Bond rates would be adjusted accordingly and operating rates would be adjusted appropriately.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

The Secretary of State is responsible for advertising and conducting the election required to allow the voters to accept or reject constitutional amendments. This is the fiscal impact to SOS:

The SOS supports and understands the legislature’s prerogative to place constitutional amendments before the voters of the state. For the purposes of determining the costs involved, the SOS wishes to inform legislators that, under Section 1-16-13 NMSA 1978, the SOS is required to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. In order to comply with this requirement for the 2016 general election, the SOS printed approximately 129,000 copies of the “Voter Guide” at a total cost of \$19,041. This cost includes publishing one 1.5 page (332 words) constitutional amendment as well as the LCS summary of the general obligation bond. The cost of producing the voter guide will change depending upon the number and length of the constitutional amendments passed.

The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. In 2016, the SOS spent \$245,918 for the required newspaper publications, however, the cost is dependent upon the number and length of the constitutional amendments that are passed. For planning purposes, an estimate of \$47.60 per word may be used to represent the costs realized in the 2016 general election to estimate the cost of publishing each constitutional amendment for the 2018 election.

The number of constitutional amendments that pass may also impact the page size of the ballot, or if the ballot size is caused to become greater than one page, front and back, which may increase the cost of producing the ballots for the general election. In addition to the cost of the ballot, there may be time added to the voting process, which would require additional ballot printing systems in order to ensure a smooth and efficient voting process within the bounds of national best practices.

SIGNIFICANT ISSUES

All property taxes are currently subject to a number of statutory and constitutional limitations, including the 20-mill limit on operating rates, percentage of total assessment limitations on bond capacity, yield control of both residential and non-residential rates and the 3 percent limitation on annual increases in valuation or residential properties. In addition, there is the constitutional exemptions for properties devoted to education or care of the poor. The state also has enacted modest “circuit breaker” provisions which grant abatements or rebates administered through the personal income tax system. (Note: these PIT provisions are largely ineffective.) With these limitations, the property tax is not utilized by any jurisdiction in New Mexico to the extent that the property tax is used in Texas or other nearby states.

In the current era, however, property taxes are primarily used to support capital improvements for the state, counties, municipalities, schools and special districts. Operating expenses of these jurisdictions are largely funded from gross receipts taxes.

TRD notes the following:

Because of the language, “related to increasing the number of dwellings on the property”, the legislative intent of this memorial is unclear. This language would likely be understood by most people as building an expansion or separate structure to accommodate an adult child or other relative. The lack of restrictive language in this memorial could, despite the inclusion of local option language, have unintended consequences. A homeowner could add property tax deferred value which meets the criterion of directly relating to increasing the number of dwellings on the property by:

- Building a multi-family apartment building
- Building a residential subdivision
- Constructing an extensive renovation with a separate residential component
- Changing a one or two family investment property to a three or four family investment property
- Creating improvements for a manufactured home park

This would set a precedent and problem similar to that experienced in the Industrial Revenue Bond (IRB) statute. A municipal council could approve this seven-year exclusion for a property located within the municipality. That would simultaneously, however, affect the assessments and therefore yield for the school district, the county and any special districts. The enabling statute could possibly require a payment in lieu of taxes (PILT or PILoT) for the non-approving jurisdictions, but it would be preferable to only allow a county to approve this exclusion and to make provision for PILTs to any besides the approving jurisdiction.

TECHNICAL ISSUES

LFC staff has a concern with this proposal relative to overlapping jurisdictions. A municipal council could approve the exclusion for a property located within that jurisdiction but the exclusion would affect the overlapping school district, county and, perhaps, special districts. Similarly, the county could force a fiscal impact on a school district, municipality or special district. One approach would be to mention in the Resolution that the school district must be held

harmless to this temporary exclusion by negotiating PILTs. It would also be useful to require approval of both municipality and county for properties located within municipal boundaries.

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date. This provision could be misused and a date certain repeal would allow the legislature to review the benefits and possible misuses of the provisions of this resolution.

TRD notes the following:

This language conflicts with 7-36-21.2 A. (2) NMSA (“the 3% rule”) which allows values to be increased independently from the limitation on valuation of residential property if physical improvements are added to a residential property. It’s unclear if the valuation abatement for the seven year period remains despite the changes in ownership provision in 7-36-21.2 (3) (a) NMSA.

The value which would be abated by this memorial could significantly affect the growth factor used in the Yield Control Mechanism 7-37-7.1 NMSA. Net New Value is residential and non-residential value not present in previous tax years attributable to residential or non-residential property, improvements and omitted assessments not present in previous tax years. It is unclear if this memorial could interfere with omitted assessment administration.

7-37-7.1 . Additional limitations on property tax rates. "net new value" means the additional value of residential or nonresidential property, as appropriate, for property taxation purposes placed on the property tax schedule in the current year resulting from the elements in Subparagraphs (a) through (d) of this paragraph reduced by the value of residential or nonresidential property, as appropriate, removed from the property tax schedule in the current year and, if applicable, the reductions described in Subparagraph (e) of this paragraph:

- (a) residential or nonresidential property, as appropriate, valued in the current year that was not valued at all in the prior year;
- (b) improvements to existing residential or nonresidential property, as appropriate;
- (c) additions to residential or nonresidential property, as appropriate, or values that were omitted from previous years' property tax schedules even if part or all of the property was included on the schedule, but no additions of values attributable to valuation maintenance programs or reappraisal programs shall be included;
- (4)"percent change I" means a percent not in excess of five percent that is derived by dividing the annual implicit price deflator index for state and local government purchases of goods and services, as published in the United States department of commerce monthly publication entitled "survey of current business" or any successor publication, for the calendar year next preceding the prior calendar year into the difference between the prior year's comparable annual index and that next preceding year's annual index if that difference is an increase, and if the difference is a decrease, the "percent change I" is zero. In the event that the annual implicit price deflator index for state and local government purchases of goods and services is no longer prepared or published by the United States department of commerce, the department shall adopt by regulation the use of any comparable index prepared by any agency

of the United States.

OTHER ISSUES

TRD points out that a property with one or two dwellings could expand into a trailer park pursuant to this CA.

7-35-2 NMSA (J.) "residential property" means property consisting of one or more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facilitate the use of the dwellings and appurtenant structures; as used in this subsection, "dwellings" includes both manufactured homes and other structures when used primarily for permanent human habitation, but the term does not include structures when used primarily for temporary or transient human habitation such as hotels, motels and similar structures;

ADMINISTRATIVE & COMPLIANCE IMPACT

TRD indicates that this would be a major administrative issue for electing counties.

County Assessors and Treasurers would have to determine the amount of value indicated by building permits and property inspection and then postpone the implementation of value by as much as seven years. It is unclear if a simple building permit would be a proxy for abated value, or if there would have to be an application and audit process to determine the correct amount of the construction expenses that related to increasing the number of dwellings on the property. Statutes would have to be written into the Property Tax Code to implement the constitutional expansion. Computer systems for Assessors and Treasurers would have to be changed. Forms for notices of value and tax bills would need to be changed statewide as well.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

In general, the legislature is not adequately advised of property tax issues. Al Maury, senior economist and later chief economist at TRD from 1987 through 2007, routinely published "Property Tax Facts." This document, however, has not been published since Dr. Maury retired.

LG/jle