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

SPONSOR Black **ORIGINAL DATE** 02/02/21 **LAST UPDATED** **HB** 173

SHORT TITLE County Solar Assessments On Homes **SB**

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY21	**FY22**	**FY23**	**FY24**	**FY25**		
	See Fiscal Implications				NA	NA

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown reduction in County Treasurer’s workload in Counties w/ SEISA/PACE programs					

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of Bill

House Bill 173 removes residential properties from the solar energy improvement special assessment act (Section 4-55C-2 NMSA 1978) also known as SEISA.

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

An unknown number of counties have adopted this SEISA/PACE financing mechanism. An equally unknown number of counties anticipate adopting the mechanism. As pointed out by EMNRD (below), a residential property owner must opt-in to the program. However, the

Treasurer's Affiliate of New Mexico Counties have indicated opposition to widespread adoption of the mechanism.

SIGNIFICANT ISSUES

The purpose of the SEISA act is to provide an alternative financing means that would allow homeowners and landlords for residential properties access to funding to allow installation of solar equipment to serve the property. Loans executed by commercial banks and finance entities would be repaid with a property tax special assessment. These assessments would be remitted to the county treasurer, who would then remit the aggregate amount collected to the financing institution. In developing this concept, there was a great deal of concern whether an unpaid SEISA obligation would create a property tax lien, and whether a SEISA lien would be superior or inferior to other tax liens or a lien filed on default of a residential property loan. Since the act provides that PACE loans, amortized with payments like taxes, have a superior standing to ordinary home improvement loans, commercial banks and lending companies might be willing, or eager, to provide financing.

EMNRD provides the perspective that the SEISA act can be useful:

> HB173 would eliminate the opportunity for residential property owners to participate in a voluntary special assessment district. The removal of this class of properties in a county could negatively impact the adoption of ordinances supporting programs such as, Property Assessed Clean Energy (PACE) in the residential sector. The current statute provides an "opt-out" clause for residential customers in a proposed special assessment district, "if the owner of the property requests the assessment" (NMSA 1978, §4-55C-3(A)) making this a voluntary action by the property owner.
>
> PACE programs can be used as an innovative mechanism for financing energy efficiency and renewable energy improvements on private commercial and residential properties. Special Assessment Districts can allow local governments to adopt PACE programs and raise money through the issuance of bonds to fund clean energy projects. PACE programs exist for: commercial properties and are referred to as Commercial PACE or C-PACE and residential properties referred to as Residential PACE or R-PACE. Special Assessment Districts can allow local governments to adopt PACE programs and raise money through the issuance of bonds to fund clean energy projects.

On the other hand, the Treasurer's Affiliate of New Mexico Counties supports removing residential properties from the assessment authority of the act.

> The NM Counties Treasurers Affiliate 2019 legislative issue supported **only** the Commercial Property Assessed Clean Energy (C-PACE) proposal. This legislation removes the <u>residential</u> property assessment passed in HB440 (2019).
>
> Significant issues arise from leaving the residential PACE option such as:
>
> - County Treasurers are not private third-party loan collectors per our constitutional duties.
> - Since 2017, HUD has stopped insuring new FHA mortgages with Residential PACE assessments, citing taxpayers growing risk to repay loans, receiving refinancing or selling of their homes, thus negatively affecting local real-estate markets.

- Increased property tax bills may hinder property tax revenues for local entities. Lack of consumer protections may encourage predatory lending practices.

In response to an inquiry from Doña Ana County, the Office of the Attorney General prepared an extensive response referenced here;

https://www.donaanacounty.org/sites/default/files/AG_Opinion_2019.pdf

> The SEISA Act permits a county treasurer to levy and collect solar energy improvement special assessments without violating the Anti-donation Clause, even where solar energy improvements are financed through private PACE loans, provided the requirements of the SEISA Act are met.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is <u>not</u> met since no reporting of utilization of this solar energy improvement special assessments are required.

ADMINISTRATIVE IMPLICATIONS

As a group, the Treasurer's Affiliate of New Mexico Counties contend that treasurers have a significant workload and adding another duty would be difficult. This bill would remove that obligation for any new SEISA/PACE proposals.

LG/sb