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

SPONSOR: Burpo DATE TYPED: 03/16/01 HB 556/aSFl#1

SHORT TITLE: Property Control Act SB

ANALYST: Carrillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	**FY02**	**FY01**	**FY02**		
			Indeterminate		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

General Services Department
Department of Game and Fish
New Mexico Finance Authority
Commission on Higher Education

SUMMARY

Synopsis of Senate Floor Amendment #1

The Senate Floor Amendment Number 1 removes the Capitol Projects Fund sections from the list of repealed provisions.

Synopsis of Bill

House Bill 556 enacts the Property Control Act, a comprehensive reorganization of statutory authority for the Property Control Division (PCD). The bill proposes the following:

- Ability to enter joint powers agreements with agencies exempt form PCD
- Removal of a 10-year limit on leasing vacant state land
- Ability to lease buildings from the New Mexico Finance Authority as a mechanism to finance acquisition of new office space in Santa Fe
- Ability to charge fees to administer capital projects (a long-standing practice)
- Ability to fund PCD's operating budget from building use fees through the Public Buildings Repair Fund (PBRF)
- Ability for PCD to act as the state's lessee with private landlords (leases not to exceed 99 years)

Significant Issues

HB 556 allows joint powers agreements with entities outside its jurisdiction and creates an administrative fee of 1 percent of estimated construction costs within Santa Fe County and 1.5 percent for capital projects outside of Santa Fe County.

According to GSD staff as several policy issues are surfaced for legislative approval, PCD's statutes are recompiled to eliminated obsolete sections and organize PCD's enabling legislation into a more logical order. The new proposals included in this legislation would enhance PCD's opportunities to make sound business decisions which impact both capital project expenditures and operating costs for PCD and other agencies.

FISCAL IMPLICATIONS

According to GSD staff, there is significant potential for reduction of operating costs for state agencies by:

- Providing a funding stream to acquire office space in Santa Fe and thereby decrease use of costly leased space,
- Allowing PCD to provide professional assistance to agencies exempt from PCD jurisdiction with occasional capital projects (e.g. State Fair renovations and new headquarter for the Department of Game and Fish), and
- Allowing PCD to sign leases as lessee would allow moving agencies to appropriate space as their needs change and thereby provide a more stable relationship with private landlords.

ADMINISTRATIVE IMPLICATIONS

GSD staff state that neither the reorganization of PCD statutes nor any of the new proposals would require additional staff or operating expense.

RELATIONSHIP

HB556 is related to:

HB 163, NMFA Acquisition for Lease
HB 319, Maintain State Buildings
HB 332, Information Systems Division Act

OTHER SUBSTANTIVE ISSUES

GSD staff lists the following:

Ability to enter joint powers agreements with agencies exempt form PCD. This would allow PCD to provide professional capital project expertise in design and construction to agencies exempt from PCD jurisdiction. Under current law, PCD cannot act as the official representative for those agencies in contractual agreements. This provision would allow PCD and an exempt agency (e.g. State Fair, Department of Game & Fish, Office of Cultural Affairs) to enter into a joint powers agreement so PCD could act as "owners representative" in contractual agreements with architects and constructions contractors.

Removal of a 10-year limit on leasing vacant state land. Currently law allows PCD to lease vacant land to a private entity to construct and lease back to the state, with a 10-year lease limit. Removal of the cap would allow a better opportunity for competitive bids to construct buildings on state-owned land and lease back the facility to the state to cover the cost of construction. Any lease under this provision requires approval from the Sate Board of Finance and a report to the Legislative Finance Committee.

Ability to lease buildings from the New Mexico Finance Authority as a mechanism to finance acquisition of new office space in Santa Fe. The NMFA could purchase buildings (e.g. NEA, PERA) by bonding against current agency lease payments. When the facility is owned, lease payments would no longer be needed, and the expense to the state would be limited to the costs of maintenance and repair. The stat's cost to won property to house state agencies is significantly less than leasing from private landowners because the state does not pay taxes and owning property is not a profit-making business for PCD.

Ability to charge fees to administer capital projects. Charging an administrative fee for capital projects is a long-standing practice to pay for in-state travel to construction sites statewide, long-distance phone calls, photo-documentation of projects, and other costs tied to administering capital projects. The fees have been included in capital request for many year. Statutory authority is sought for those fees. The alternative is to fund PCD's operating budget without regard to the number and location of projects. In that case, if sufficient funds aren't available to administer all projects, site visits, would have to be reduced and oversight of projects would suffer.

Ability to fund PCD's operating budget from building use fees through the Public Buildings Repair Fund (PBRF). Building use fees were established by Laws 1996, Chapter 46 based on the percentage of square feet occupied by each agency. Funding has yet to be included in agency operating budgets.

Ability for PCD to act as the state's lessee with private landlords. Current law requires PCD to "control" the process of leasing privately-owned space for state agency use, but does not include the option for PCD to sign leases as the lessee on behalf of state agencies. This bill would provide PCD the opportunity to manage lease space over the potential 20-year life of a lease when it is in the best interest of the state. For example, when conditions change for the state agency occupying the space – the office is expanded, down-sized, reorganized or moved into another agency – that agency's housing needs might change. If PCD were the lessee, space could be managed to accommodate those changes. The stability that would afford might result in lower lease rates.

WJC/njw