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FISCAL IMPACT REPORT

SPONSOR: Gubbels DATE TYPED: 03/01/01 HB 789
 SHORT TITLE: Public Hearings By State Fair Commission SB _____
 ANALYST: Gonzales

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
		Significant	Recurring	OSF

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

New Mexico State Fair

SUMMARY

Synopsis of Bill

House bill 789 requires the State Fair Commission (Commission) to perform an assessment of the impacts of an expansion or redevelopment of the state fair grounds or a substantial modification of the fair grounds plan. The bill also requires the Commission to hold a public hearing on a plan for expansion or redevelopment of the state fair grounds or a substantial modification. The bill sets parameters for the publication of the public notice and states the Fair may approve a plan following the public hearing if it finds the plan conforms to the general plan for the municipality, its zoning ordinance, transportation plan and other applicable laws and regulations concerning development.

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Furthermore, the bill allows any person adversely affected by an action taken by the Commission to appeal the action to district court.

Significant Issues

The bill states the assessment shall include the impact on air quality, traffic, noise, the economy to surrounding businesses and neighborhood social conditions and shall be published and made available on request to members of the public at least 30 days before the public hearing states above.

PERFORMANCE IMPLICATIONS

The Fair begin performance budgeting in FY03, as outlined in the Accountability in Government Act, and the Fair indicates this bill will have significant performance implications because the Fairs ability to improve and provide safe and efficient facilities could be hampered due to time delays and added expense leading to losses in revenues.

FISCAL IMPLICATIONS

The Fair reports:

enactment of this bill would financially debilitate the Agency by imposing the requirement to fund the systematic preparation of environmental, traffic impact, pollution assessment, 'cityscape', and infrastructure impact studies costing between \$100,000 - \$200,000 prior to the renovation of any existing building or the construction of any new facility.

This bill will have tremendous fiscal implications. Improvements and expansion of facilities would require costly impact studies. Time delays from complying with the public hearing requirements would also increase the cost. It could dramatically reduce the Agency's ability to adjust to changing market conditions in order to attract or keep events of a large enough scale to be profitable, sustain itself on a business basis, or provide the economic impacts to the City of Albuquerque produced annually by the 17-day State Fair event, the Arabian and Junior Arabian horse shows, the ice shows, the circus, building materials shows, gun shows, arts and craft festivals, and various other specialty shows occurring on the fairgrounds.

ADMINISTRATIVE IMPLICATIONS

The Fair indicated the provisions of this bill would require additional staff and a significant amount of time to research local zoning ordinances and for the Commission to conduct public hearings.

CONFLICT/RELATIONSHIP

This bill may prohibit the implementation of capital improvements due to the time frame involved

TECHNICAL ISSUES

The words expansion and redevelopment (page 3, line 16) are not defined.

Facility expansion and new development are currently defined in other parts of the statute as follows:

“facility expansion” means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development.

“new development” means the subdivision of land; reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure; or any use or expansion of the use of land.

OTHER SUBSTANTIVE ISSUES

The Fair reports the following substantive issues :

Pursuant to AG opinion 94-01, state land is immune from local zoning ordinances unless express statutory authority is given. See *City of Santa Fe v. Armijo*, 96 N.M. 663, 664, 634 P.2d 685, 686 (1981) (“A state governmental body is not subject to local zoning regulations or restrictions...”). The bill does not grant this authority as currently written; but would require the state fair commission to interpret local ordinances as they pertain to expansion or redevelopment on the fairgrounds. This requirement would indirectly give local control over the activities on the fairgrounds.

Local zoning in the areas surrounding the fairgrounds would not currently allow stalling and exhibiting livestock, conducting horse racing, and various other activities that occur on the fairgrounds. The fair is currently undertaking a redevelopment of its stall areas on the facility. New language in Section E would prohibit the approval of the plan. The recently completed renovation of Tingley Coliseum included a new lobby “expansion”. As written, the bill would have required impact studies and public hearings prior to the approval of the plan. These requirements would have significantly delayed the project and added greatly to the cost. Furthermore, the New Mexico State Fair recently completed the renovation of the old Route 66 restaurant facility and rededicated the facility as the African-American Pavilion. This “new” use of the facility would have fallen under the provisions contained in the bill.

Section E has internal conflicts with 16-6-4, Section B, in that the commission is entrusted with “the entire direction of its business and its financial affairs”. The A.G. opinion cites a New Jersey case where it was held that “Generally, local zoning and planning regulations cannot affect the State’s authority to carry out public functions for the benefit of all people of the State, especially on the State’s own land. The language in Section E implies local control over state land for which it does not have express statutory authority.

This bill could set a dangerous precedent for other state entities: allowing local ordinances to limit or dictate what activities are conducted on state lands or other governmental activities; such as correctional facilities, public schools, and universities.

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New language in Section F would apply to every action by the State Fair Commission and would allow any person to appeal the action in district court. This language could preclude the statutory obligations of the commission.

JMG/njw