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FISCAL IMPACT REPORT

SPONSOR: Varela DATE TYPED: 02/05/01 HB 89
 SHORT TITLE: Resident Contractor Defined SB _____
 ANALYST: Carrillo

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 88, Amending Procurement Code

SOURCES OF INFORMATION

LFC Files
 General Services Department (GSD)
 State Highway and Transportation Department (SHTD)
 Regulation and Licensing Department (RLD)
 Department of Finance and Administration (DFA) – No Response

SUMMARY

Synopsis of Bill

House Bill 89 proposes to amend the definition of resident contractor. The bill removes the eligibility requirement that ownership of a business, whether sole proprietorship, partnership or corporation, seeking resident contractor status must be beneficially owned by one or more individual citizens who are domiciled in New Mexico in order to qualify for the resident contractor preference.

Significant Issues

On February 25, 2000, a federal district court issued a Memorandum Opinion and Order in the case of C.S. McCrossen Construction Inc. et al v. Pete k. Rahn et al, Civ. No. 97-896 that held unconstitutional those provisions of the statute restricting eligibility for preference.

According to GSD staff, New Mexico is one of seven states remaining with a resident preference statute. Most states have removed preference for resident businesses and adopted reciprocal preferences, which have the effect of penalizing New Mexico businesses five percent when they

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attempt to do business in those states. The State Purchasing Agent records reflect the following in regard to “resident preference”:

	1997	1998	1999	2000
# of Bidders Receiving a Resident Certificate Number	5,797	6,144	6,496	6,787
# of Contract Awards Based on the 5% Preference	40	43	27	34
Total Cost to the State	\$31,819.00	\$3,055.00	\$1,998.00	\$1,935.45

According to GSD staff, as the State moves more into the e-commerce arena, repealing the provisions dealing with residence preference (Sections 13-4-2, 13-1-21 and 13-1-22 NMSA 1978) would allow New Mexico businesses to freely compete without penalty, in all but those states that still have a residence preference statutes.

FISCAL IMPLICATIONS

Minimal fiscal impact.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

House Bill 89 relates to HB88, Amending the Procurement Code.

WJC/njw:pr