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FISCAL IMPACT REPORT

ORIGINAL DATE 2/10/17
LAST UPDATED 2/22/17

SPONSOR Dodge/Lundstrom **HB** 317/aHTPWC
SHORT TITLE Capital Improvement Design Contract Times **SB** _____
ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 General Services Department (GSD)
 Energy, Minerals & Natural Resources Department (EMNRD)

SUMMARY

Synopsis of HTPWC Amendment

The House Transportation, Public Works & Capital Improvements Committee amendment clarifies the proposed exception to the four-year limitation on professional services contracts relating to design and engineering of a capital improvement projects will not exceed the requisite time for project completion and the subsequent warranty period.

Synopsis of Original Bill

House Bill 317 amends Section 13-1-150, NMSA 1978 of the Procurement Code making an exception to the four-year limitation on professional services contracts relating to the design and engineering of a capital improvement project. The exception is for a reasonable period, but not to exceed the requisite time for project completion and a subsequent warranty period. An extension of the contract would require approval from the Secretary of Finance and Administration (DFA).

FISCAL IMPLICATIONS

As of January 2017, \$978.4 million from all funding sources for 2,503 projects remains outstanding. This bill would allow certain contracts for capital outlay projects to extend beyond four years.

The General Services Department, Facilities management reports it currently oversees a majority of state-owned facilities and may be impacted by this bill. The department states “failure to approve this bill allowing flexibility in design and engineering contracts, may have a fiscal impact on construction cost via delays, waiting to re-award architectural, engineering, construction management, or commissioning agreements which could otherwise simply be extended.” However, the department failed to provide any additional cost assumptions.

SIGNIFICANT ISSUES

The Energy, Mineral & Natural Resources Department states the following: “HB 317 would provide flexibility for the Energy, Minerals and Natural Resources Department (EMNRD) to keep contractors on board related to capital improvement project design and engineering services. For example, the State Parks Division (State Parks) manages multiple multi-years, large-scale capital projects related to State Parks that have design and engineering components such as facilities construction or water/wastewater projects. Many of these projects are significant for public health and safety and can increase recreational opportunities for park visitors.”

ADMINISTRATIVE IMPLICATIONS

DFA would be required to process all approvals to exceed the four year period for design and engineering services for capital improvement projects statewide. The GSD indicates it may be more efficient to have the GSD secretary to approve the extensions.

EMNRD indicates they would have the administrative means to extend contracts for design and engineering beyond four years.

Local public bodies, including municipalities, counties, and schools, have capital projects which are not required to purchase through the state purchasing agent, and are not funded through DFA.

TECHNICAL ISSUES

The Mining and Minerals Division of EMNRD administers the Abandoned Mine Land (AML) Program. The department indicates the bill leaves unclear whether this bill would pertain to the AML program. Perhaps the sponsor may include a clear definition of “a state public works project,”—a definition not currently stated in the bill.

OTHER SUBSTANTIVE ISSUES

Currently, the Procurement Code provides that a contract for professional services may not exceed four years, including all extensions and renewals, except for the following:

- (1) Services required to support or operate federally certified Medicaid, financial assistance and child support enforcement management information or payment systems;
- (2) services to design, develop or implement the taxation and revenue information management systems project authorized by Laws 1997, Chapter 125;
- (3) a multi-term contract for the services of trustees, escrow agents, registrars, paying agents, letter of credit issuers and other forms of credit enhancement and other similar services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities

remain outstanding;

(4) services relating to the implementation, operation and administration of the Education Trust Act [21-21K-1 through 21-21K-7 NMSA 1978]; and

(5) services relating to measurement and verification of conservation-related cost savings and utility cost savings pursuant to the Public Facility Energy Efficiency and Water Conservation Act.”

LMK/al/jle