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FISCAL IMPACT REPORT

SPONSOR Burt ORIGINAL DATE 3/7/17
 LAST UPDATED 3/9/17 HB _____

SHORT TITLE Notice of Construction Near Flight Paths SB 484/aSCORC

ANALYST Fernandez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Department of Military Affairs (DMA)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to Senate Bill 484 adds the word “new” and the specification of “over 100 feet in height” to the bill. The result is this new section of the Construction Industries Licensing Act would apply to a **new** construction permit for construction **over 100 feet in height** on real property located beneath a military training flight path to provide 45 days notice to the commander of a military installation of the request for construction.

Synopsis of Original Bill

Senate Bill 484 enacts a new section of the Construction Industries Licensing Act to require an agency issuing a construction permit on real property located beneath a military training flight path to provide 45 days notice to the commander of a military installation of the request for construction.

FISCAL IMPLICATIONS

- CID indicates that the requirement for a 45 day notification prior to an agency issuing a construction permit would be problematic. CID or local jurisdictions do not control the requests for permits, rather it is the contractor that bids on contracts and can request a permit online or in person for work to be inspected within days of the permitting request. It would be out of the ordinary for the agency to receive the permit request prior to 45 days before the construction is intended to begin. This requirement would significantly hinder construction and economic development in New Mexico as it would halt construction work for an extended period of time as the agency waits to issue a permit until the 45 day notification period expires.

SIGNIFICANT ISSUES

RLD provides the following issues:

- The Construction Industries Licensing Act defines “contracting” as “constructing, altering, repairing, installing or demolishing...” According to RLD, permits are issued for various types of construction projects. The department notes that it is not clear if notification of requests for permits on electrical work like service poles and cell towers; mechanical systems on the roof of structures; new construction, a remodel to an existing structure; or an addition would be applicable under the requirements of this bill. The language in the bill appears to apply to any constructing, altering, repairing, installing or demolishing.
- RLD notes regulations, standards and codes require the enforcement of building codes related to general construction, mechanical, plumbing, electrical and LP gas. CID does not have the authority to determine placement of new structures in New Mexico. The placement of structures is determined by the planning and zoning powers of the municipality, county or other political subdivision in which the structure will be located. Only after the planning and zoning authorities have approved the location of a proposed structure will CID or the local jurisdiction handle the permit application and inspection process. RLD indicates that an alternative would be for the local planning and zoning authority or other political subdivision to provide notification to the commander of a military installation. If an existing structure is already located on such a site, and a remodel or addition is proposed, CID or the local jurisdiction would be the authority enforcing the building codes.
- RLD indicates it is not clear if CID and local jurisdictions that issue permits would be required to maintain an inventory of all flight plan maps and to either maintain or obtain current maps of current and future flight plan locations.

Department of Military Affairs provides the following information:

- FAA regulations require that any construction over 200 feet have FAA approval and hazard lighting. Anything short of 200 feet—e.g. a cell phone tower that is 198 feet tall—may not be required to get FAA approval or a light on its tower. These vertical obstructions, which may underlie a military training flight path, can create a serious safety hazard for flight crews. This bill would give notice to the military of any such new construction so that they can safely plan for these new vertical obstructions.

ADMINISTRATIVE IMPLICATIONS

According to RLD, this bill would be difficult to implement and enforce due to issues noted.

CF/jle