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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/2020

SPONSOR HTPWC LAST UPDATED _____ HB 377/HTPWCS

SHORT TITLE Rural Air Service Enhancement Act SB _____

ANALYST Jorgensen

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	\$9,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

The House Transportation, Public Works and Capital Improvements Committee substitute for House Bill 377 creates a new aviation grant program to be administered by the New Mexico Department of Transportation (DOT). HB377/HTPWCS requires DOT to award grants annually to municipalities and counties to provide assistance to airlines in the establishment of regional air service. The grants are to be awarded through a competitive process.

To be eligible for a grant award, a municipality or county would need to have a minimum population of twenty thousand residents residing within a fifty-mile radius of the airport, unless there is an existing air service at the airport.

The local government would have to provide either a 10 percent match if there is no existing air service or a 50 percent match if there is existing air service. The maximum grant would be either up to \$1.2 million if there is existing air service or \$1.7 million if there is no existing air service. Grants are awarded for a two-year period.

To fund the program, HB377/HTPWCS creates the "Rural Air Service Enhancement Fund" and appropriates an initial \$9 million from the general fund to the fund for expenditure in fiscal year

2021 and future fiscal years. Appropriated funds will not revert to the general fund.

FISCAL IMPLICATIONS

HB377/HTPWCS appropriates \$9 million from the general fund to the newly-created rural air service enhancement fund. Section 4(C) of the bill requires that “each fiscal year, competitive grants shall be awarded to applicants for the sole purpose of funding rural air service enhancement grants.”

SIGNIFICANT ISSUES

The NMAG states:

Because the Act structures the contemplated grant program such that the recipients of grant funds are rural municipalities and counties, the Act’s scheme to develop regional air service for rural communities does not on its face violate the Anti-Donation clause of the New Mexico Constitution.

The DOT notes that the program is funded by an initial one-time appropriation of \$9 million. Without any dedicated source of revenue, the long-term success of the program will depend on annual appropriations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The General Appropriation Act of 2020 includes \$7.5 million for the purposes of this bill.

TECHNICAL ISSUES

The DOT reports the Act requires the department award grants to municipalities and counties for the sole purpose of funding rural air service. However, HB 377/HTPWCS does not provide any description of what constitutes an eligible grant expenditure.

The NMAG suggests revising Section 2 of HB377/HTPWCS on page 1, line 22 to strike language stating “provide assistance to airlines” and replace with “assist”.

OTHER SUBSTANTIVE ISSUES

DOT states:

The Federal Aviation Administration has established certain certification requirements for any airport that provides scheduled air carrier operations with aircraft designed for more than nine passenger seats but less than 31 passenger seats. Any rural airport that does not currently have a 139 Certification would need to limit the size of aircraft participating in this program to less than 9 passenger seats or obtain a 139 Certification. To obtain 139 Certification, an airport must agree to certain operational and safety standards, and provide for such things as firefighting and rescue equipment. Obtaining such a certification takes time and would require both an upfront expense to acquire the certification and a continuing financial obligation on the part of the municipality or county to maintain its 139 Certification.