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FISCAL IMPACT REPORT

SPONSOR: Sanchez DATE TYPED: 03/06/01 HB 625/aHGUAC/aHAFC
 SHORT TITLE: Disposition of State Property SB _____
 ANALYST: Carrillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$ 50.0	Recurring	Other State Funds

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	\$ 50.0		Recurring	Other State Funds

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Commission on Higher Education (CHE)
 State Department of Education (SDE)
 General Services Department (GSD)
 Office of the Attorney General (AG)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 625/aHGUAC adds the State Police Division (Department of Public Safety) to those enumerated as exempt from the provisions of the proposed legislation.

The remainder of the FIR is unchanged.

House Bill 625/aHGUAC/aHAFC -- Page 2

Synopsis of HGUAC Amendment

The House Government and Urban Affairs Committee amendment to House Bill 625 adds the provision allowing real or tangible personal property to be donated to an Indian nation, tribe or pueblo.

Synopsis of Original Bill

House Bill 625 proposes to:

Require state agencies to give the Federal Property Assistance Bureau of the General Services Department (FPAB/GSD) a right of first refusal when the agency is disposing of its obsolete, worn-out or unusable tangible personal property.

Require a written determination prior to public bodies selling or otherwise disposing of real or tangible personal property. It requires that any disposition to an Indian tribe, pueblo or nation be by negotiated sale, while allowing donations to other public bodies in the state. Any disposition to any other entity would require competitive sealed bids or public auction. If a state agency wishes to dispose of real or personal property, it must be done through the FPAB/GSD. The bill also requires a state agency to grant a right of first refusal to dispose of the agency's tangible personal property, and allows a school district to do so if it wishes. This bill would also make the provisions of this section applicable to computer hardware (previously exempted), but adds a new exemption for property acquired by a museum through abandonment procedures pursuant to the Abandoned Cultural Properties Act.

Significant Issues

The Office of the Attorney General (AG) staff indicates:

By treating dispositions between state agencies, local public bodies and school districts differently than those involving Indian nations, tribes, and pueblos, Section 2 is contrary to this office's current view of the law, which is believed to allow public bodies to make donations to Indian tribes, pueblos and nations treating them the same as any other public body in the state).

Application of the competitive bids/public auction requirements of Section 2 of the bill may not be appropriate as to certain dispositions, like between state museums and their foundations, leases of restaurants, gift shops or other portions of state museums.

GSD staff notes this bill establishes the FPAB as a recycle center for items of tangible personal property no longer needed by state agencies. It centralizes redistribution of property purchased with public money and makes that property available to others, with a handling fee to support GSD's enhanced role in recycling property. Redistribution of property ensures maximum life cycle usage and reduces possible mishandling of disposal property that is unusable by the purchasing agency or that can be reused.

GSD also states there are currently 518 authorized organizations registered with the FPAB including state agencies; counties; municipalities; school districts; state institutions of higher learning; governmental units of an Indian nation, tribe or pueblo; and authorized non-profit organizations. Redistributing property among these entities will benefit citizens who pay state and local tax, and clients of non-profit organizations.

FISCAL IMPLICATIONS

GSD staff estimates approximately \$50.0 would be needed to support an additional FTE (salary, benefits, travel, etc.). The handling fees generated and collected should cover the cost. State agencies and others obtaining property through the program will save money on office furniture, supplies, etc., that are available through the FPAB program.

TECHNICAL ISSUES

AG staff states:

Section 2 adds a requirement that a “written determination” be made (page 4, line 24 - 25), but it is not clear who is to make it—the approving authority or the public body disposing of the property. This provision should be amended to clarify who needs to make that written determination.

Because state educational institutions are expressly exempted from the application of this statute (see: (G)(2), page 6, lines 4 - 6; 13-6-4(C), page 7 beginning at line 24), it may be appropriate to delete the phrase “state educational institution” throughout Section 13-6-2 NMSA 1978 as currently enacted and in the proposed amendments (at page 5, lines 1, 4, 9 and 25—along with requirement for approval by Commission on Higher Education at page 6, lines 6 - 7; and page 6, lines 16 and 21 - 22).

While the new subsection B to Section 13-6-2 NMSA 1978 requires a state agency to give the FPAB the right of first refusal to dispose of that agency’s tangible personal property (page 5, line 14 - 19, consistent with the right of first refusal required in the new subsection E of Section 13-6-1 NMSA 1978 – page 3, lines 13 - 16), the reference in subsection A requiring state agency disposition of property through the bureau applies to real property, as well (page 5, lines 12 - 13). Is that the intent of the bill? Secondly, what happens if the FPAB chooses not to exercise its right of first refusal? As the bill is currently worded, it appears that the FPAB will have to seek competitive bids or conduct a public auction. If that is not the intent, these provisions should be amended.

AMENDMENTS

GSD staff suggests: Page 7, between lines 6 and 7, insert: “(3) the state police division of the department of public safety”.

WJC/njw:ar