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FISCAL IMPACT REPORT

SPONSOR Lujan DATE TYPED 2/19/05 HB 720/aHENRC

SHORT TITLE Natural Resource Conservation Bids SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

Relates to SB 32

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Corrections Department (CD)
- Energy, Minerals & Natural Resources (EMNRD)
- Public School Facilities Authority (PSFA)
- General Services Department (GSD)

SUMMARY

Synopsis of HENRC Amendment

The House Energy & Natural Resources Committee amendment to HB 720 changes the requirement that a qualified provider shall provide a corporate guarantee to require a letter of credit issued by a bank with a Moody's or standard and Poor's rating of "A" or better or any other surety, including insurance.

Synopsis of Original Bill

House Bill 720 amends the Public Facility Energy Efficiency and Water Conservation Act to allow cash bond, corporate guarantees and any other surety to cover guaranteed utility savings contracts. This bill also provides for allowing competitive sealed proposals for design-build procurement of projects whose primary purpose is to conserve natural resources. Guaranteed utility savings contracts will also be subject to competitive sealed proposals.

Significant Issues

The PSFA notes on average, half of school maintenance budgets are for energy use, and two thirds of this energy use is for interior lighting. Geothermal systems, like the one recently installed in Alamogordo, uses ambient ground temperature to provide heating and cooling. The energy savings will fund the cost of the system. In addition to energy savings, it is expected to save over 4 million gallons of water a year. The technology is robust, and systems are reportedly easier and less expensive to maintain than swamp coolers, air conditioners and conventional heating units.

This bill should make it easier for state agencies, municipalities, counties, school districts and institutions of higher education to enter into guaranteed utility savings contracts by expanding the types of guarantees that may be providing and reducing the amount of the guarantees. These contracts allow public entities to upgrade the efficiency of their facilities with no upfront, out-of-pocket expenditures. A qualified provider, a private-sector energy service company arranges all financing and recovers its costs and fees through the savings resulting from the building efficiency improvements.

FISCAL IMPLICATIONS

EMNRD believes over the long term, substantial savings accrue to the State and local governments from reduced utility costs. New Mexico taxpayers are thus the ultimate beneficiaries of this bill since their tax dollars cover the operating expenses of all public facilities. The occupants of upgraded public buildings—government workers, teachers, and students—will also reap the benefits through more comfortable, better lit offices and classrooms that have been shown to increase learning and productivity.

ADMINISTRATIVE IMPLICATIONS

EMNRD's review of the additional guaranteed utility savings contracts anticipated as a result of this bill's enactment can be accomplished with existing staff resources.

GSD can manage a change to the procurement code with existing staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 720 relates to HB 32 which creates the Energy Efficiency and Renewable Energy Bonding Act to fund energy efficiency measures in state and public school buildings with the proceeds of bonds issued for that purpose.

TECHNICAL ISSUES

Section 3 adds new material to the Procurement Code allowing for competitive sealed proposals for design and installation of measures to conserve natural resources. This appears unnecessary in light of the Section 2 change to Section 13-1-22D requiring competitive sealed proposals in procuring these measures.

OTHER SUBSTANTIVE ISSUES

EMNRD suggests removing the language in page 2, lines 3 and 4 and substituting the following language: “in the form of a performance bond, a cash bond or any other surety, including insurance, satisfactory to the governmental”. This amendment is proposed to eliminate a “corporate guarantee” as an authorized performance guarantee because a corporate guarantee does not provide the same level of protection for public entities as a performance bond or cash bond. The GSD concurs in this proposed amendment for the same stated reason. The amendment also includes “insurance” as an authorized performance guarantee because it would provide a level of protection commensurate with that of a performance or cash bond.

DW/lg:sb