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FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/08
 SPONSOR Morales LAST UPDATED 01/25/08 HB _____
 SHORT TITLE Fort Bayard Medical Center Replacement SB 258/aSJC
 ANALYST Geisler

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total			See fiscal impact			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Attorney General (AG)

SUMMARY

Synopsis of Senate Judiciary Amendment

The SJC amendment to SB 258 adds that the provisions of the procurement code shall not apply to the procurement of “tangible personal property” in addition to services or construction.

Synopsis of Original Bill

This bill is necessary in order to allow the Department of Health (DOH) to proceed in replacing the Fort Bayard Medical Center. It allows DOH to acquire the new facility through a number of options, including a lease-purchase, consistent with the new constitutional amendment allowing such financing agreements, and includes a provision by which the legislature ratifies and approves a lease-purchase with Grant County, which ratification/approval is required by current law, although under the bill the final form of that agreement would need to be approved by the state board of finance. DOH’s ultimate exercise of the purchase option would also require approval by the board, and title would be taken by the property control division of the General Services Department. The bill also authorizes DOH to enter into an agreement with the County under which DOH constructs the replacement facility.

The bill also grants certain exemptions from the Procurement Code related to this facility, which exemptions are necessary in order for DOH to proceed as it has planned. These exemptions apply both to DOH and the County. There is an emergency clause attached to the bill.

FISCAL IMPLICATIONS

DOH already has statutory authority to replace Fort Bayard and has already has a contract manager (GeoCare) in place. A recent (November 2007) cost estimate for the 135,000 square foot, 227 beds, 9 building complex is approximately \$48 million. DOH is working with Grant County to issue bonds to fund construction of the facility. In turn, DOH will enter into a lease purchase agreement with Grant County.

The future impact (beyond FY10) on the DOH operating budget for lease purchase payments to Grant County is projected to be at least \$3.5 million general fund per year for 25 years. However, DOH believes the cost of the bond service will partially be offset by operational cost savings for the new facility such as reduced utilities and repair costs.

SIGNIFICANT ISSUES

This legislation is needed to allow DOH to purchase and own, rather than lease the facility. Section 1 D is requesting the legislature's ratification and approval of a lease-purchase agreement.

DOH notes that FBMC was built in 1922 and the age of the building creates significant maintenance and operations issues. The current facility still has asbestos in the majority of the flooring. Four years ago the DOH sought estimates to replace the flooring. The lowest estimated cost received was \$6 million dollars. DOH has only been able to due minimal asbestos abatement maintenance on the floor in the interim. In the past 5 years, DOH has had to replace the warehouse roof, water supply system, fire alarm system and install a more efficient bio-mass boiler system. Through these enhancements, the building still does not have the necessary equipment or design to be compliant with the Americans with Disabilities Act. This poses a continued problem for FBMC staff in their ability to provide a high level of care.

FBMC was designed to be a hospital, not a skilled nursing facility. The original design creates additional problems for the residents admitted to the facility because it is a 4-story building with multiple stairways. This type of design limits the staff's ability to effectively monitor the residents to decrease opportunities for abuse, neglect, and exploitation. Additionally, the design limits the resident's ability to access the outdoors and impacts their quality of life. The new facility is designed to be single level with multiple entry points allowing greater mobility and aesthetic appeal. Eliminating the stairways decreases the opportunities for falling by a population of residents that already have mobility issues. The current multi-level design also makes staffing and monitoring of the facility very difficult and with the new facility design DOH could increase their monitoring efficiency and improve quality of care.

DOH recently entered into a settlement agreement with the Department of Justice (DOJ) that included a requirement that the DOH seek a replacement facility for FBMC. The DOJ conducted a Civil Rights of Institutionalized Person's Act (CRIPA) investigation and determined that the current FBMC facility was inadequate.

OTHER SUBSTANTIVE ISSUES

DOH notes there are several exemptions from and exceptions in the Procurement Code for hospitals, health care, county hospitals, and hospitals pursuant to the Special Hospital District Act. The 2005 change to the Procurement Code to allow DOH to procure “. . . an agreement . . .

to operate [FBMC] or to provide and operate in Grant county a replacement facility for [FBMC] . . .” was initially thought to be sufficient authorization for the department to pursue a replacement facility in a joint venture with Grant county and the FBMC management contractor.

DOH continues that, however, upon further review and discussions with the Legislative Finance Committee, the Department of Finance and Administration (Budget Division and Board of Finance and the Assistant Attorney General for the Board of Finance), it was determined that this legislation would provide the best, most appropriate vehicle for the department to pursue the replacement facility.

The Legislative Finance Committee has strongly supported use of a lease-finance purchase method for acquisition of a new Fort Bayard Hospital.

TECHNICAL ISSUES

It is not clear in Section 1 A (2) of the bill that DOH’s actual intent is to enter into a lease purchase agreement as Paragraph 2 still allows acquisition by lease. Further, it is not clear in the same section if DOH will actually obtain title to the facility.

GG/bb:nt