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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/08
 LAST UPDATED 2/11/08

SPONSOR SRC _____ HB _____

SHORT TITLE Penitentiary Wastewater Lease System Lease _____ SJR CS/10/aSJC _____

ANALYST Propst _____

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$83.8	\$147.6	\$147.6	\$379.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Corrections Department (NMCD)

General Services Department (GSD)

SUMMARY

Synopsis of SJC Amendment

On page 2, strike lines 24 and 25 in their entirety.

On page 3, strike lines 1 through 5 in their entirety.

The amendment strikes the provision requiring Santa Fe County to provide the Corrections Department and NM National Guard a 7% reduction in the government/institutions commodity charge for all wastewater flow from their existing facilities as of January 2008 for a period of 10 years.

Synopsis of SRC Substitute

The Senate Rules Committee substitute to Senate Joint Resolution 10 removes “purchase” and “donation,” allowing only for a lease of the wastewater treatment system for up to ninety (99) years. It specifically excludes transfer of water rights owned by the state.

FISCAL IMPLICATIONS

NMCD reports that even with a 7% reduction in the commodity charge, NMCD would still have to pay at least \$135,928.80 each and every year (for the next ten years) in commodity charges to Santa Fe County for its wastewater flow from the Penitentiary of New Mexico and the Central Office administrative complex. The joint resolution appropriates no money to NMCD to defray or pay these significant costs. Further, if the commodity charge increases in the future, and it is likely to do so, then costs would be even greater in years to come. If the facility were to become the property of Santa Fe County, the County would ultimately be able to charge NMCD almost any amount it wanted.

GSD noted that the transfer proposed in SJR 10 will result in a recurring operating budget increase for PNM. PNM does not pay for wastewater treatment services under the current lease between PCD and Santa Fe County. SJR 10 would require PNM to pay for wastewater treatment service beginning this month (January 2008) but funding was not included in the current year (FY08) budget and funding is not included in the FY09 budget being considered during this legislative session.

The cost estimate for the Corrections Department, based on current usage of more than 3.5 million gallons a month, would be \$135,900 a year for PNM. After the 10-year discount, the recurring cost to PNM would increase by 7 percent. The annual cost for the NM National Guard would be reduced by \$882 a year (current cost of \$12,600 minus 7% discount equals \$11,700).

SIGNIFICANT ISSUES

GSD notes that many of the amendments proposed by GSD in the analysis of the original bill are incorporated in the SRC/sub for SJR 10. However, the substitute bill retains language requiring the Corrections Department (CD) to pay for wastewater treatment services beginning last month (January 2008). GSD recommended this unfunded requirement be removed and continues to recommend this because CD is not funded to pay wastewater charges in FY08 or FY09 budgets. To protect the CD budget for the Penitentiary of New Mexico, PCD recommends that the execution of the lease be contingent upon operating budget funding for this purpose being in the appropriate CD budgets for FY08 and FY09.

GSD further notes that the SRC substitute does not address the budget deficiency for CD if charges go into effect retroactively, in January, 2008. In addition, the seven percent discount on usage for ten years may not adequately compensate the state for the asset value of the wastewater treatment facility and land upon which it is located.

WEP/mt