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FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/13

SPONSOR Moore LAST UPDATED _____ HB _____

SHORT TITLE Public Property Naming Process SB 89

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General Fund & funds of other public building owners

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)
 Department of Cultural Affairs (DCA)
 General Services Department (GSD)
 Department of Transportation (DOT)
 University of New Mexico (UNM)

SUMMARY

Synopsis of Bill

Senate Bill 89 prohibits state agencies and local governments, including home-rule municipalities, from naming public property and publicly-funded programs after any living person or during an elected official’s term in office. It also establishes these naming procedures for public property:

1. For a state building under the control of Property Control Division (PCD) of the GSD, the secretary of GSD shall appoint a naming committee to develop a list of at least three names for review by the secretary and governor.
2. For other state buildings under the control of other state agencies, local governments, regional cooperatives, public school boards and institutions of higher education, the judicial branch or the legislative branch, the secretary, director, board, commission or other final decision-maker shall appoint a naming committee to develop a list of at least

three names for review by the final decision-maker.

In developing a list of names, the naming committee may propose descriptive or associative names, names honoring a place, object or event or names honoring a person who made a major contribution to New Mexico history, culture, administration or development. If a naming committee considers listing a person for consideration, it is required to conduct extensive research and solicit input from the state historian and community in which the public building is located.

FISCAL IMPLICATIONS

The GSD advises that SB 89 would impose minor fiscal implications.

SIGNIFICANT ISSUES

The GSD indicates there is currently no statutory guidance with regard to naming public buildings. This bill will establish clear guidelines to perform this task openly and with some public input.

The DCA advises that it:

relies on a public/private partnerships model for leveraging public and private support for museum and monument facilities and buildings. DCA, in conjunction with its various associated Boards, has active naming programs and procedures. DCA uses the process of naming facilities, galleries, and wings as recognition for significant contribution(s) that support the Department's public mission. DCA would need to create new name procedures for buildings, collections, and programs that were created and leveraged on behalf of a specific individual. While this bill would allow for specific collections to be named after a donor, any real public property would be prohibited.

The same issue concerning naming programs for public building may apply with equal force to the state's institutions of higher education and other public bodies that may leverage public and private support for buildings or facilities.

Additionally, the term "final decision-maker" appears to be confusing. The NMDOT reads SB 89 to designate its Cabinet Secretary as the final decision-maker for buildings under its control, but references an existing Highway Commission policy that requires all requests to designate or dedicate by name any NMDOT building, bridge, interchange, highway, transportation facility or other structure be submitted to the Commission for approval. The DCA also comments that the bill offers no guidance as to who is the "final decision-maker", noting that it has various final decision-makers within its structure including a cabinet secretary, division and museum directors and commissions, depending upon what the decision is. It cites as an example the existence for each museum of an appointed board that currently makes certain final decisions, including naming decisions. Additionally, as to final decision-makers, SB 89 requires the list of names be given to the final decision-maker for review—it does not expressly authorize selection or any other determination from the proffered list.

The bill also prohibits naming public property after a living person or public official during that official's term of office. It is not necessary to prohibit naming a building after a public official during that official's term in office since by definition that official is still living.

PERFORMANCE IMPLICATIONS

The process required in SB 89 could slow the process of naming buildings, but there is no clear detriment to performance associated with a slower process.

TECHNICAL ISSUES

The AGO notes that the title for section 2 of the bill includes programs, but the text only concerns the naming of buildings.

Similarly, while the ban contained in Section 1 applies generally to both personal and real property owned by a public entity, the processes set out in Section 2 apply only to “public buildings”, which term is not defined and appears to exclude other publicly owned interests in real property, such as roads, bridges and parks and all publicly owned personal property.

Lastly, the term “final decision-maker” needs to be defined.

POSSIBLE QUESTIONS

The bill does not specify the implications of public buildings and programs that are already named for living persons. Will existing previously named buildings or programs be grandfathered in?

MD/svb/bm