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HOUSE BILL 516

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Carl Trujillo

AN ACT

RELATING TO PUBLIC PROPERTY DISPOSITIONS; RAISING THE THRESHOLDS FOR REQUIRING APPROVAL OF REAL OR TANGIBLE PERSONAL PROPERTY DISPOSITIONS; REQUIRING STATE BOARD OF FINANCE REVIEW AND RECOMMENDATION PRIOR TO LEGISLATIVE APPROVAL OF PROPOSED REAL PROPERTY DISPOSITIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 13-6-2 NMSA 1978 (being Laws 1979, Chapter 195, Section 3, as amended) is amended to read:

"13-6-2. ~~[SALE]~~ DISPOSITION OF PROPERTY BY STATE AGENCIES ~~[OR]~~, LOCAL PUBLIC BODIES, SCHOOL DISTRICTS AND STATE EDUCATIONAL INSTITUTIONS--AUTHORITY TO SELL OR DISPOSE OF PROPERTY--APPROVAL OF APPROPRIATE APPROVAL AUTHORITY--EXCEPTIONS.--

A. ~~[Providing a written determination has been~~

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1 ~~made, a state agency, local public body, school district or~~
2 ~~state educational institution may sell or otherwise dispose of]~~
3 Real or tangible personal property [~~belonging to the~~] may be
4 sold, traded, leased or otherwise disposed of by a state
5 agency, local public body, school district or state educational
6 institution; provided that a written determination has been
7 made that the sale, trade, lease or other disposition is in the
8 best interest of the state agency, local public body, school
9 district or state educational institution. The state agency,
10 local public body, school district or state educational
11 institution may convey all or any interest in the real or
12 tangible personal property without warranty.

13 B. A state agency, local public body, school
14 district or state educational institution may sell or otherwise
15 dispose of real property:

16 (1) by negotiated sale or donation to an
17 Indian nation, tribe or pueblo located wholly or partially in
18 New Mexico, or to a governmental unit of an Indian nation,
19 tribe or pueblo in New Mexico, that is authorized to purchase
20 land and control activities on its land by an act of congress
21 or to purchase land on behalf of the Indian nation, tribe or
22 pueblo;

23 (2) by negotiated sale, trade, lease or
24 donation to other state agencies, local public bodies,
25 municipalities, school districts or state educational

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1 institutions;

2 (3) through the central purchasing office of
3 the state agency, local public body, school district or state
4 educational institution by means of competitive sealed bid,
5 public auction or negotiated sale to a private person or to an
6 Indian nation, tribe or pueblo in New Mexico; or

7 (4) if a state agency, through the surplus
8 property bureau of the transportation services division of the
9 general services department.

10 C. A state agency shall give the surplus property
11 bureau of the transportation services division of the general
12 services department the right of first refusal to dispose of
13 tangible personal property of the state agency. A school
14 district may give the surplus property bureau the right of
15 first refusal to dispose of tangible personal property of the
16 school district.

17 D. Except as provided in Section 13-6-2.1 NMSA 1978
18 requiring state board of finance approval for certain
19 transactions, a sale, trade, lease or other disposition of real
20 or tangible personal property having a current resale value of
21 more than [~~five thousand dollars (\$5,000)~~] ten thousand dollars
22 (\$10,000) may be made by a state agency, local public body,
23 school district or state educational institution if the
24 proposed sale, trade, lease or other disposition has first been
25 approved by the state budget division of the department of

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1 finance and administration for state agencies, the local
2 government division of the department of finance and
3 administration for local public bodies, the public education
4 department for school districts and the higher education
5 department for state educational institutions.

6 E. Prior approval of the appropriate approval
7 authority under Subsection D of this section is not required if
8 the tangible personal property is to be used as a trade-in or
9 an exchange pursuant to the provisions of the Procurement Code.

10 F. The appropriate approval authority under
11 Subsection D of this section may condition the approval of
12 [~~the~~] a sale, trade, lease or other disposition of real or
13 tangible personal property upon the property being offered for
14 sale or donation to a state agency, local public body,
15 municipality, school district or state educational institution.

16 G. The appropriate approval authority under
17 Subsection D of this section may credit a payment received from
18 the sale of [~~such~~] real or tangible personal property to the
19 governmental body making the sale. [~~The state agency, local~~
20 ~~public body, school district or state educational institution~~
21 ~~may convey all or any interest in the real or tangible personal~~
22 ~~property without warranty.~~]

23 H. The provisions of this section [~~does~~] do not
24 apply to:

25 (1) computer software of a state agency;

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1 (2) those institutions specifically enumerated
2 in Article 12, Section 11 of the constitution of New Mexico;

3 (3) the New Mexico state police division of
4 the department of public safety;

5 (4) the state land office or the department of
6 transportation;

7 (5) property acquired by a museum through
8 abandonment procedures pursuant to the Abandoned Cultural
9 Properties Act;

10 (6) leases of county hospitals with any person
11 pursuant to the Hospital Funding Act;

12 (7) property acquired by the economic
13 development department pursuant to the Statewide Economic
14 Development Finance Act; and

15 (8) for the sale or other disposition of
16 tangible personal property, the state parks division of the
17 energy, minerals and natural resources department."

18 SECTION 2. Section 13-6-2.1 NMSA 1978 (being Laws 1989,
19 Chapter 380, Section 1, as amended) is amended to read:

20 "13-6-2.1. [~~SALES, TRADES OR LEASES~~] DISPOSITION OF REAL
21 PROPERTY--STATE BOARD OF FINANCE APPROVAL--EXCEPTIONS.--

22 A. Except for dispositions of real property
23 requiring state board of finance recommendation and legislative
24 approval as provided in Section 13-6-3 NMSA 1978, for state
25 agencies, any sale, trade, [~~or~~] lease for a period of more than

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1 five years or other disposition of real property belonging to a
2 state agency, local public body or school district or any sale,
3 trade [~~or~~], lease or other disposition of such real property
4 for a consideration of more than [~~twenty-five thousand dollars~~
5 ~~(\$25,000)~~] sixty thousand dollars (\$60,000) shall not be valid
6 unless it is approved prior to [~~its~~] the effective date of the
7 disposition by the state board of finance.

8 B. The provisions of this section shall not be
9 applicable to:

10 (1) those institutions specifically enumerated
11 in Article 12, Section 11 of the constitution of New Mexico;

12 (2) the state land office;

13 (3) the state transportation commission;

14 (4) the economic development department when
15 disposing of property acquired pursuant to the Statewide
16 Economic Development Finance Act; or

17 (5) a school district when leasing facilities
18 to a locally chartered or state-chartered charter school."

19 SECTION 3. Section 13-6-3 NMSA 1978 (being Laws 1961,
20 Chapter 41, Section 1, as amended by Laws 2003, Chapter 142,
21 Section 4 and by Laws 2003, Chapter 349, Section 23) is amended
22 to read:

23 "13-6-3. [~~SALE, TRADE OR LEASE~~] DISPOSITION OF REAL
24 PROPERTY BY STATE AGENCIES--RECOMMENDATION OF STATE BOARD OF
25 FINANCE--APPROVAL OF LEGISLATURE--EXCEPTIONS.--

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1 A. ~~[Any sale, trade or lease for a period exceeding~~
2 ~~twenty-five years in duration of real property belonging to any~~
3 ~~state agency, which sale, trade or lease shall be for a~~
4 ~~consideration of one hundred thousand dollars (\$100,000) or~~
5 ~~more, shall be subject to the ratification and approval of the~~
6 ~~state legislature prior to the sale, trade or lease becoming~~
7 ~~effective.] A sale, trade, lease for a period exceeding twenty-
8 five years or other disposition of real property, for a
9 consideration of two hundred thousand dollars (\$200,000) or
10 more, belonging to a state agency shall not be valid and shall
11 be retractable unless first:~~

12 (1) the state board of finance reviews the
13 proposed sale, trade, lease or other disposition and recommends
14 approval to the legislature; and

15 (2) the legislature reviews the state board of
16 finance recommendation and approves the proposed sale, trade,
17 lease or other disposition. The provision specified in Section
18 13-6-2 NMSA 1978 requiring approval of the state budget
19 division of the department of finance and administration as a
20 prerequisite to consummating [~~such sales or~~] dispositions of
21 [~~realty~~] real property shall not be applicable in instances
22 wherein the consideration for the sale, trade, [~~or~~] lease or
23 other disposition shall be for a consideration of [~~one hundred~~
24 ~~thousand dollars (\$100,000)] two hundred thousand dollars
25 (\$200,000) or more and wherein a state agency not specifically~~

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1 excepted by Subsection B of this section is a contracting
2 party, and, in every such instance, the legislature shall
3 specify its approval prior to the sale, trade, ~~[or]~~ lease or
4 other disposition becoming effective.

5 B. The provisions of this section shall not be
6 applicable as to those institutions specifically enumerated in
7 Article 12, Section 11 of the constitution of New Mexico, the
8 state land office, the state transportation commission or the
9 economic development department when disposing of property
10 acquired pursuant to the Statewide Economic Development Finance
11 Act."

12 SECTION 4. Section 13-6-4 NMSA 1978 (being Laws 1979,
13 Chapter 195, Section 5, as amended) is amended to read:

14 "13-6-4. DEFINITIONS.--As used in Chapter 13, Article 6
15 NMSA 1978:

16 A. "consideration" includes cash, other property,
17 services or another form of compensation that is of equal or
18 greater value as the property interest being conveyed;

19 ~~[A-]~~ B. "local public body" means all political
20 subdivisions, except municipalities and school districts, of
21 the state and their agencies, instrumentalities and
22 institutions;

23 ~~[B-]~~ C. "state agency" means the state of New
24 Mexico or any of its branches, agencies, departments, boards,
25 instrumentalities or institutions other than state educational

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institutions;

~~[G-]~~ D. "state educational institutions" means those institutions designated by Article 12, Section 11 of the constitution of New Mexico; and

~~[D-]~~ E. "school districts" means those political subdivisions of the state established for the administration of public schools, segregated geographically for taxation and bonding purposes and governed by the Public School Code."