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## FISCAL IMPACT REPORT

**ORIGINAL DATE**  
**SPONSOR** Cervantes **LAST UPDATED** 02/28/15 **HB** \_\_\_\_\_

**SHORT TITLE** Procurement of Some Professional Services **SB** 551

**ANALYST** Daly/Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate	Indeterminate	Indeterminate	Recurring	Local Government Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Municipal League (Municipal League)  
 General Services Department (GSD)  
 Department of Finance & Administration (DFA)  
 Attorney General's Office (AGO)  
 Administrative Office of the Courts (AOC)  
 New Mexico Corrections Department (NMCD)  
 Public School Facilities Authority (PSFA)  
 Department of Cultural Affairs (DCA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 551 amends the Procurement Code to require home rule municipalities comply with the Code's provisions governing the selection of architects, engineers, landscape architects and surveyors, including the use of competitive sealed qualifications-based proposals. Under current law, a home rule municipality that has enacted its own purchasing ordinance is exempt from those provisions.

### FISCAL IMPLICATIONS

Responding agencies report no fiscal impact to the State. There will, however, be costs to home rule municipalities which may need to modify their current procurement rules, regulations and procedures, as well as any expenses related to any training that may need to occur. The fiscal impact on those entities related to contracts actually awarded under these new procedures, and whether they result in increased or decreased costs, is indeterminate.

## **SIGNIFICANT ISSUES**

The Municipal League reports that it is a strong supporter of the concept of home rule embodied in the New Mexico Constitution and it sees this legislation as an infringement on the state constitutional rights granted to municipalities that elect to become home rule municipalities.

On the other hand, GSD explains that with the change contained in SB 551, there is consistency and standardization in procurements of these types of services. The only remaining exception is that for institutions of higher education. Without such standardization, GSD points out that potential proposers may encounter with different standards and requirements from different types of entities when responding to requests for proposals for these types of services. As GSD explains the competitive sealed qualifications-based proposal process:

This selection method does not include price as a factor when evaluating and rating proposals to provide these services. Instead, only qualifications are evaluated and rated, and the order of preference for award is made by such qualification rating. At this point, negotiations are conducted with the highest rated offeror first, and then price is introduced to arrive at a final written contract that is fair and reasonable. (If the local public body has developed its own rate schedule, or has adopted the state rate schedule, then the range of compensation would be derived from that rate schedule, which presets compensation for all of the various types of services that can be procured in these professional service categories, including the highest rate that can be included in a contract). If negotiations with the highest rated offeror are unsuccessful, then the next highest-rated offeror is engaged in negotiations, and so on down the list until a contract is arrived at by the parties.

DFA comments that utilizing the qualification-based proposal process for these types of early project planning and design work may reduce the need for change orders once services have begun and improve the overall quality of structures and projects. This process recognizes that for these types of services, choosing the lowest cost offeror may not always be in the best interest of the public body, and is intended to ensure that professionals who are the most qualified for the project will be awarded the contract. It also notes that SB 551 will create consistency throughout the state in the procurement of these services.

## **DUPLICATION**

Duplicates House Bill 100.

MD/bb