F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	2/5/16		
SPONSOR	Wooley	**LAST UPDATED**	2/12/16	**HB**	93/aHBEC
SHORT TITLE	Veterans Business Preference Changes			**SB**	
				ANALYST	Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 10

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)
General Services Department (GSD)
Veterans Services Department (VSD)

SUMMARY

Synopsis of HBEC Amendment

House Business and Employment Committee amendment to House Bill 93 limits a resident veteran business and resident veteran contractor from benefiting from the veteran's preference to ten consecutive years, which addresses the concern TRD expressed in its analysis of the original bill.

Synopsis of Bill

House Bill 93 proposes to amend the Procurement Code (NMSA 1978, Section 13-1-21) as it relates to veterans preferences.

FISCAL IMPLICATIONS

The agencies responding report minimal fiscal impact, including changes to the TRD's GenTax system.

SIGNIFICANT ISSUES

VSD opines that the statute as currently written is very confusing, has multiple levels of annual income for veteran owned businesses, has a sliding scale of percentages, and does not define who has rule-making authority. This bill would simplify and clarify those areas.

DFA agrees that HB 93 clarifies and simplifies the current veteran business preference. It reduces the maximum revenue a veteran business can earn to $3 million, versus $5 million in current law. It also merges the three current tiered preferences into one 10% preference.

GSD states that if the state has an interest in supporting emerging resident veteran businesses through procurement preferences this bill is one way to do so. The bill changes annual gross revenue from a tiered structure to a single tier of $3 million in gross revenue in the preceding tax year, and adds new sections setting a 10 year maximum time for a vendor to use the resident veteran preference and limiting the benefit to only one business concurrently. It is a policy decision whether the gross annual revenue maximum and establishing the duration for use of the preference will better target the desired emerging veteran businesses group.

ADMINISTRATIVE IMPLICATIONS

The GSD - State Purchasing Division has three rules that are concerned with preferences, generally. They are NMAC 1.4.1, NMAC 1.4.2 and NMAC 1.4.3. These may require amendment due to the changes made by this bill.

GSD reports that it is unknown at present how much SPD staff time would need to be devoted to this initiative since the number of future bid proposals involving preferences for the higher level gross annual revenue for resident veteran businesses are not predictable. Currently, the preference application process is staffed by SPD and the time devoted to this task is simply provided as necessary. Tracking and reporting the use of this preference in awards over the course of all procurements will probably involve more staff time in procurement offices needing to track the preference.

Likewise, it is unknown how much extra cost may be incurred by the state and local public bodies in the purchase of items under this preference. This is because the purchase price of items procured are higher than the otherwise low price when the bid price is for the purpose of award reduced by the preference amount and then compared to the low price. In procurements for services that involve a limited number of suppliers, which are selected on a qualifications basis, the increased points allowed in calculating technical merit as a result of being a veteran business could have a dramatic impact on order of ranking. For entities that use the RFP process to make procurements and cost is a factor, the 10% preference would have a strong impact on selection against an otherwise lower offer.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to Senate Bill 10 (Resident Business Set-Aside)

TECHNICAL ISSUES

TRD opines that the proposed changes on page 7, line 5 and page 12, line 8 are unclear. The ten-year limitation on the benefit could be total years, consecutive years, years in which the business owner closes one business and opens a new business, etc. The last sentence in the proposed sections, preventing a person from benefiting from the provisions of the section based on more than one business concurrently does not clarify the ten-year requirement and adds more confusion; it appears to limit the owner to bidding for contracts under the name of only one company if he or she owns more than one company. However, it can also be read to limit a vendor to one claim of the benefit at one time total.

ALTERNATIVES

GSD and TRD state that the preference might better target smaller start up veteran's business entities by reducing the $3,000,000 gross annual revenue maximum and by shortening the 10 year maximum time for using the preference.

ABS/jo/al/jo