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## FISCAL IMPACT REPORT

SPONSOR Ingle ORIGINAL DATE 2/5/17  
 LAST UPDATED 2/15/17 HB \_\_\_\_\_

SHORT TITLE Educational Facility Restrictions & Rules SB 271

ANALYST Romero

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Nonrecurring	PSFA Operating

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)

Public School Facility Authority (PSFA)

### SUMMARY

#### Synopsis of Bill

SB 271 amends portions of the procurement code expanding the Construction Manager at Risk construction methodology (CMAR) used by the Public School Facilities Authority (PSFA) to allow public buildings, if the governing authority chooses, as an alternative to the competitive sealed bid method of procurement. The changes remove all indications that the CMAR Act is limited to educational facilities.

Subsection B stipulates that the CMAR Act is to be implemented pursuant to rules promulgated by the secretary of the General Services Department (GSD) in consultation with the public school facilities authority and other agencies deemed appropriate by the secretary.

Section 5 removes “Educational Facility” from the definition of Construction Manager at Risk Act in Subsection C. Subsection D adds the governing body of a local public body as well as the general services department as definitions for “governing authority”.

Senate Bill 271 makes technical changes in Sections 6 and 7.

While the Construction Industries Division (CID) of RLD is responsible for inspection of public buildings, this bill does not implicate CID as it deals strictly with expanding the CMAR

construction methodology for use in public buildings, including educational facilities, and it does not affect CID's responsibilities regarding licensing or code enforcement.

### **FISCAL IMPLICATIONS**

It is unknown what the effects of this bill will be to the Public School Facilities Authority.

### **SIGNIFICANT ISSUES**

SB271 expands the use of CMAR contracts to all state facilities, in lieu of the current limitation to be used only on educational facilities.

### **ADMINISTRATIVE IMPLICATIONS**

PSFA developed standard CMAR documents available for use by eligible entities in 2008 and periodically thereafter have updated them as necessary. It is indeterminate at this time the level of PSFA staffing needed or time schedule to provide consultation to GSD for promulgation of rules.

### **OTHER SUBSTANTIVE ISSUES**

13-1-124.4 NMSA, 1978 Construction at Risk Delivery Method requires that the owner set the Maximum Allowable Construction Cost (MACC) in the RFP. As opposed to RFP for Construction procurement, the CMAR contractor must deliver the project within the fixed MACC, which can only be changed by the owner and by changing the scope of the project. Project price risk is therefore shifted to the contractor. The CMAR proposal is only for management services; qualifications are the primary concern for the project owner.

The process to promulgate rules for implementation currently do not specify consultation with delegates from higher education and school districts that may be familiar and experienced with the CMAR process.

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