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FISCAL IMPACT REPORT

ORIGINAL DATE 02/20/17
LAST UPDATED 02/25/17

SPONSOR SFC **HB** _____

SHORT TITLE Waiver of State Facility Management Rules **SB** 430/SJCS/SFCS/ec
Klundt/Daly/ Hanika-
ANALYST Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See fiscal impact				Various

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Committee Substitute

The Senate Finance Committee Substitute to Senate Judiciary Committee Substitute to SB 430 enacts a temporary provision authorizing the General Services Department (GSD) to waive the application of Rule 1.5.21 NMAC and extend and expand facility leases for the Children, Youth and Families Department (CYFD), Department of Health, and Taxation and Revenue Department.

The substitute bill carries an emergency clause that this act take effect immediately.

FISCAL IMPLICATIONS

The fiscal impact is indeterminate because the legislation allows GSD to determine site selection, expenditure and terms of private property lease extensions. In addition, the bill may set a precedent for bypassing GSD acquisition and procurement rules regarding private property lease extensions.

The bill reduces competition which is likely to boost costs. In addition, it may be less costly over the longer term to build and maintain a state-owned facility than commit the state to leasing a purpose-built leased space. However, in light of a failed RFP process, according to CYFD, the department believes that a waiver of GSD rules for this specific purpose is the only way to have use of a new 20,000 square foot (SF) facility to serve as a children’s wellness center in Albuquerque.

CYFD reported lease costs the first year remain the same as the last year of the current lease. That amount is about \$1.9 million annually and is budgeted for FY2018. However, an annual escalation rate is generally built in from year to year. This escalation rate will be negotiated as necessary.

Last year, CYFD and GSD staff approached LFC staff to discuss alternatives to a failed RFP to acquire a new and expanded leased facility to provide trauma-informed programming. CFYD and GSD were exploring 3 options: A) current landlord to build a new children’s center (projected \$6 million landlord investment) for CYFD in exchange for a 15 year lease extension with 5 year option, B) current landlord to remodel bathrooms and lobbies and other upgrades for CYFD in exchange for a 5 year lease extension with three 5 year options, and C) current landlord to build a children’s center and perform campus-wide improvements (projected \$8 million landlord investment) for CYFD, Taxation and Revenue, and the Department of Health in exchange for 7 year lease extensions with three, 5 year options. Apparently, CFYD has chosen option C to pursue.

Under option C, lease costs remain the same for TRD and DOH until the new leases expire in 2027 and 2028. For CYFD, costs for 3 of the 4 leases remain the same until 2026 and one lease, which is higher than the others at \$24.47 per square foot, is reduced to a more comparable \$17.19 per square foot. The savings from the reduction offsets the much higher rent for the new children’s center, keeping overall lease costs for CYFD flat until 2028 when the lease expires. (see attachment)

SIGNIFICANT ISSUES

GSD rules limit the term of a private property lease to 20 years, limit the amount of leased space that can increase by lease amendment, and typically require a request-for-proposals process for new leases or lease renewals. Under the bill, the Legislature should be clear it is directing GSD to waive application of these rules to meet CYFD’s needs by entering into these lease extensions.

It appears that under the existing leases, the landlord is already required to perform some of the maintenance and other improvements included in the new lease extensions proposed by CYFD. However, in the past, this landlord has not always been responsive to the departments’ needs.

This bill does not address the need for a state-owned trauma-informed CYFD facility. In fact, the legislative waiver of GSD rules and CYFD’s acceptance of the proposed lease extensions pursuant to this bill may restrict the state’s right to vacate these premises if the state builds a new facility.

According to Capital Building Planning Commission (CBPC) inventory, in Bernalillo County, the state has in place 54 leases for 906,000 SF at a cost of about \$17 million per year. Yet, SF per FTE is 360, higher than GSD’s space standard of 215 SF per FTE, which includes some common areas.

PERFORMANCE IMPLICATIONS

This bill eliminates the competitive RFP process typically required by GSD rules.

ALTERNATIVES

After a state property transaction raised concerns, the CBPC voted to endorse legislation to establish a prior review and approval process through the commission to ensure property transactions are in the best interests of the state, followed by passage of a joint resolution approving the transaction, with final review and approval by the State Board of Finance (SBOF). Because the Legislature is giving GSD authority to enter into lease extensions, expansions and options, the bill could include a final review and approval by CBPC or SBOF.

OPTION C Cont.

Current and Proposed Rent Schedules:

CYFD

Tenant	LRN	Current Expiration Date	Proposed Expiration Date	Square Feet	Current Rental Rate	Proposed Rental Rate	Current Annual Rent	Proposed Annual Rent
CYFD	586	1/31/2019	1/31/2026	77,609	24.47	17.19	1,899,092.23	1,334,098.71
CYFD	08-115	1/31/2019	1/31/2026	1,098	15.50	15.50	17,019.00	17,019.00
CYFD	2015-0042	1/31/2019	1/31/2026	1,765	14.00	14.00	24,710.00	24,710.00
CYFD	2014-0013	1/31/2019	1/31/2026	1,274	15.49	15.49	19,734.26	19,734.26
CYFD New Building			5/30/2028	20,000		28.25	-	565,000.00
Total:				101,746			1,960,555.49	1,960,561.97

TAXATION & REVENUE

Tenant	LRN	Expiration Date	Proposed Expiration Date	Square Feet	Current Rental Rate	Proposed Rental Rate	Current Annual Rent	Proposed Annual Rent
Tax & Rev - DMV	12-014	3/31/2020	3/31/2027	3,623	16.13	16.13	58,438.99	58,438.99
Tax & Rev - A&C	1273	3/15/2020	3/31/2027	71,807	14.50	14.50	1,041,201.50	1,041,201.50
Tax & Rev - TFI	2048	3/31/2020	3/31/2027	7,886	16.15	16.15	127,358.90	127,358.90
Tax & Rev - ASD	2014-2012	3/31/2020	3/31/2027	4,099	15.49	15.49	63,493.51	63,493.51
Total:				87,415			1,290,492.90	1,290,492.90

DEPARTMENT OF HEALTH

Tenant	LRN	Current Expiration Date	Proposed Expiration Date	Square Feet	Current Rental Rate	Proposed Rental Rate	Current Annual Rent	Proposed Annual Rent
DOH - LTS	1326	11/30/2020	11/30/2028	16,436	16.24	16.24	266,920.64	266,920.64
DOH	2006-1967	1/1/2021	1/1/2028	31,168	15.22	15.22	474,376.96	474,376.96
DOH - LTS	2005-1945	12/31/2020	12/31/2028	5,226	14.98	14.98	78,285.48	78,285.48
DOH	2012-0023	1/1/2021	1/1/2028	10,152	15.82	15.82	160,604.64	160,604.64
Total:				62,982			980,187.72	980,187.72



