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FISCAL IMPACT REPORT

SPONSOR Morales ORIGINAL DATE 3/3/17
 LAST UPDATED _____ HB _____

SHORT TITLE Transfer Ft. Bayard Property to Santa Clara SB 439

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)
 Office of the Attorney General (OAG)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 439 authorizes the transfer of state-owned real property, known as the old Fort Bayard Hospital Campus, to the Village of Santa Clara in Grant County. This property consists of 315 acres with dozens of buildings and tangible personal property. Water rights and mineral rights are not included in the conveyance. GSD, with the approval of the state engineer, shall enter into a long term lease with the Village for water rights, fire suppression and other uses.

The bill sets forth restrictions on the Village; they shall not sell, trade or otherwise permanently dispose of the property without legislative approval; if the Village proposes to use the property for any purposes other than a living heritage recreational complex, it must first obtain legislative approval. The Village may lease the buildings or other property to the federal, state or other local governments and may lease portions of the recreational complex to recreational providers.

The bill would go into effect on June 16, 2017.

FISCAL IMPLICATIONS

DFA noted the property could be worth somewhere near \$4.7 million today, plus the value of

any improvements made since acquired. As such, DFA recommends that an appraisal be obtained to determine the financial impact to the State and that any conveyance to the Village occur at fair market value rather than by donation. In addition, the State may lose federal funding as the fort has a National Historic Landmark designation. On the other hand, the state will save the cost of repairs, maintenance and insurance on the property, which is extremely dilapidated.

DFA also noted that the financial ability of the Village of Santa Clara to pay for the repairs, maintenance, and insurance of the property is not well demonstrated. The Village has a population of 1,600. Total taxable gross receipts (the tax base for the gross receipts tax) for the Village was \$8,602,606 in FY2016 and \$6,254,718 in FY2015. The Village receives about \$1.6 million on average in gross receipts tax revenue and small cities distribution funding annually. A review of their cash flow suggests that the Village may not have the resources to manage this property. As of December 2016, the Village reported cash balances of \$211,000.

SIGNIFICANT ISSUES

The federal government conveyed the Fort Bayard hospital property to the State of New Mexico in 1966 for \$1,042,465 paid by the state by earning a public benefit allowance for the entire consideration, subject to conditions. Specifically, the state agreed to use the property for 20 continuous years, for public health purposes. The state complied with that requirement. In 1975, the state transferred 16 acres to the U.S. Veterans' Administration for the creation of the Fort Bayard National Cemetery. The state has not operated a hospital on this property for many years. The new Fort Bayard Medical Center was built across the highway and opened in 2010.

Fort Bayard was established in 1866 and is designated a National Historic Landmark. The Village proposes to preserve certain historic buildings on the property and establish a living heritage recreational complex in hopes of providing economic development and tourism.

PERFORMANCE IMPLICATIONS

OAG raised an issue whether the proposed transfer and use violates the law on national historic landmarks. Although the bill indicates the Village proposes to preserve "certain" historic buildings, it leaves ambiguous which buildings and whether the "certain" historic buildings encompasses all of the buildings that are designated as a national historic landmark. Neither the bill nor its unofficial survey address easements which may be necessary to the transfer.

DFA states the bill provides that the Village may lease the buildings to recreational providers. If the Village leases to a private entity, it must be at fair market value to conform with the anti-donation clause. DFA recommends that language be included in the donation agreement.

ADMINISTRATIVE IMPLICATIONS

GSD is opposed to this bill. GSD reports it has made efforts to look at long range plans for the facility. In 2011, GSD analyzed the development potential of Fort Bayard. At the time, the estimate to renovate the facility would be \$20 million. In 2012, GSD was appropriated \$4.8 million for the demolition of the old Ft Bayard Medical Center. This demolition has been completed. However further demolition is needed of other buildings that are beyond repair.

Currently, the Department of Health is using several of the buildings on the campus including 3

shops and a warehouse and plans to move items into the laundry building in the future.

GSD has been working with the Federal Veterans Administration (VA) on expansion of the VA cemetery located on the Ft Bayard campus.

GSD believes as the owner of the water rights, it should continue to own the land where the water tanks are located and have access to those tanks and to the sources of the water supplied.

TECHNICAL ISSUES

GSD and DFA noted the bill quotes a legal description for the property from an unofficial survey. DFA recommends that any conveyance of property references an official recorded plat of survey. DFA also recommends a donation agreement be executed between GSD and the Village.

OAG notes that the language is ambiguous in parts, e.g. the logistics of the survey to be obtained and if there are any discrepancies between the obtained survey and unofficial one cited in the bill. This issue could be addressed by briefly clarifying specifically which survey will govern or the procedure if there is any variation. The bill also references that there will be a lease for the supply of water to the Village for fire suppression and other uses, but there are no specific terms beyond the minimum volume to be supplied. While the lease of water would include addressing the need for fire suppression by the Village, the bill does not indicate what procedure will be in place for fire suppression if there is a protracted negotiation over the water lease terms.

ALTERNATIVES

A joint effort by GSD and other State agencies along with the Village of Santa Clara to generate ideas for the best use and preservation of Ft Bayard. Other options include converting the property to a state park, museum with oversight by the Department of Cultural Affairs or federal designation as a national monument because of its rich history.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

GSD will remain the owner of the Ft Bayard property.

AHO/sb