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FISCAL IMPACT REPORT

SPONSOR <u>Burt/McKenna/Hernandez</u>	LAST UPDATED <u>03/06/23</u> ORIGINAL DATE <u>02/16/23</u>
SHORT TITLE <u>Digital Trunked Radio Comms Fees</u>	BILL NUMBER <u>Senate Bill 409/aSHPAC</u>
ANALYST <u>Hitzman</u>	

APPROPRIATION* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
	\$2,500.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DoIT Admin & Operations	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files
 Department of Information Technology PSCOMMS Update to LFC (June 2022)

Response to Amended Bill Received From
 Department of Information Technology (DoIT)
 Department of Finance and Administration (DFA)

Responses to Original Bill Received From
 Municipal League (ML)
 Department of Public Safety (DPS)
 New Mexico Corrections Department (NMCD)
 Department of Homeland Security (DHSEM)
 Department of Information Technology (DoIT)

SUMMARY

Synopsis of SHPAC Amendments to Senate Bill 409

Senate Health and Public Affairs Committee amendments to Senate Bill 409 (SB409) reduces the appropriation from \$6.5 million to \$2.5 million.

Synopsis of Original Bill

Senate Bill 409 (SB409) appropriates \$6.5 million (amended by SHPAC to total \$2.5 million) to the Department of Information Technology (DoIT) from the general fund for the purpose of paying subscriber fees for the digital trunked radio system for municipal, county, and tribal public safety agencies providing law enforcement, fire, medical, and other emergency services.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The appropriation of \$2.5 million contained in the amended bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY24 shall revert to the general fund.

However, it should be noted, depending on the mechanism for distributing the funds, the bill could create an expectation the funding will continue in future fiscal years and could be considered a recurring cost if distributed via a newly established grant program, for example.

DoIT notes the initial appropriation in the bill (\$6.5 million) could allow the agency to provide access to nearly 27 thousand radios. DoIT estimates the amended amount (\$2.5 million) could provide access to around 10,417 radios. However, that only covers the subscriber fees to access the system, not the equipment itself because the bill does not seem to explicitly cover the costs of leasing fees for equipment, but only “subscriber fees.” Therefore, it is likely that leasing costs for radios, for example, would not be covered. The Department of Finance and Administration (DFA) echoes this concern, noting “Per 10.6.2 NMAC, portable radio equipment is not an allowable expenditure for the E-911 program.”

Currently, users of the digital trunked radio system (DTRS) must pay monthly service fees of \$20-\$30 per radio. DoIT notes it “currently charges municipal, county, and tribal public safety agencies \$240 per year per radio for access to the DTRS. There are 13 municipal, county, or tribal public safety agencies currently participating. Revenue recovered in service fees for these 13 agencies averages \$1.3 million per year.” The Municipal League (ML) note “monthly fees can be costly, especially for smaller agencies. Typically, each law enforcement officer has two radios (one carried on the person, the other in the vehicle); a police department with 30 officers could pay over \$20 thousand annually in subscription fees alone. Fire departments typically have two to four radios per fire truck and two per ambulance.” As such, ML notes the bill “would help alleviate the significant financial burden for departments, while encouraging the use of a vital, statewide resource” if covering even just a portion of these monthly fees. DFA echoes this idea, noting “subscriber fees can disproportionately affect smaller public safety agencies” and result in additional barriers to adoption, so this funding in SB409 could allow for increased adoption among agencies who normally may not be able to participate.

State agencies, including the Department of Public Safety (DPS) and the New Mexico Corrections Department (NMCD), note there would be no fiscal impact to the agencies because

the bill provides the funding only to cover fees for municipal, tribal, and county agencies. Similarly, the Department of Homeland Security (DHSEM) would not be impacted but expressed support for the expansion of the system to other local entities as provided for in SB409.

DFA notes “radio interoperability will influence alternative 911 routing decisions as the state transitions to the Next Generation 911 system and an opportunity exists to leverage DTRS to increase the interoperability of 911 to ensure all 911 voice and data information is delivered efficiently to the first responder.” However, the agency notes that “a non-recurring appropriation may not eliminate the barrier of entry for local agencies to adopt the DTRS long term.”

As noted by DoIT, “DTRS is a statewide public safety radio communications system. The system is currently being deployed and completion of the build out is expected in 2027 to...provide critical communications capability to state agencies and participating municipal, county and tribal public safety agencies.” With the system, DoIT notes “first responders from participating agencies can easily talk to each other on their radios at multi-agency incident scenes.” However, DoIT notes some agencies may not be able to join because DTRS is not yet available in their area and notes the agency is analyzing capacity and existing coverage to ensure potential subscriber additions are viable.

In agency project updates to LFC in June 2022, DoIT noted its plans to serve 60 percent of the state’s geographic areas with the system in FY23, with plans for 92 percent coverage by FY27. DoIT already partners with six counties (including limited subscribers) and four municipalities or villages as well as several other departments and individual agencies. The system had 9,100 active individual radios at the time of the report with an average call volume of 50,400 per day across subscribers. The agency has received capital outlay funding in the past to support the expansion of the system. Further, DoIT notes:

DoIT will be onboarding additional municipal, county and tribal public safety agencies that have signed subscriber agreements for the system. The addition of these agencies will increase service revenue at least by \$1 million over the next 12 to 18 months. It is unlikely that a significant quantity of subscriber agencies would join the system in FY24. This is because most agencies would need to purchase radios that are compatible with the system, which will take time.

While the appropriation contained in SB409 would not go to DoIT to directly support the buildout of the system, it would likely have the effect of expanding the system to other entities and improving the rate of adoption for local and tribal entities where there is already good adoption among state agencies and state and federal public safety entities.

However, the bill does not specify the mechanism by which municipalities, counties, and tribal entities would access the funding. The department may need to establish a grant or other application process for awarding funds, which would also require the creation of award criteria, which is not specified in the bill. As such, it is unclear which entities would be eligible, which would be prioritized for funding, and which would require additional administrative support by the department to apply for and administer funding. For all entities, DoIT would need to establish a mechanism for overseeing the funding and ensuring it is used in the intended way. Alternatively, DoIT may be able to apply the appropriation as a credit to existing subscriber bills, but, again, it is unclear how decisions would be made regarding who receives the funding and

what level of funding each entity would receive. It is also unknown the extent of demand for such funding or how many entities are experiencing cost barriers to participating in the DTRS that would end up participating as a result of SB409.

Regarding the initial \$6.5 million appropriation, DoIT noted, “because the subscriber base proposed to be supported by the appropriation only requires \$1.3 million to \$2.3 million annually for subscription fees, and the appropriation expires at the end of FY24, a significant reversion is likely.” Because Senate Floor amendments to SB409 reduce the appropriation to \$2.5 million, the agency is more likely to spend the entire amount because it is more in line with demand in the given timeframe and, therefore, amendments likely address this concern. However, DoIT still recommends adding nonreversion language to the bill to ensure the agency can spend down the entire appropriation and not revert needed funding due to timing restrictions.

DoIT also notes concerns regarding fee structures:

NMSA 9-27-16 mandates that DoIT “shall charge a fee” for any provided services to support DoIT’s operations. NMSA 9-27-7 mandates that rates be equitable and based on cost recovery as mandated by federal law. Providing general fund dollars to support operations of only a cohort of DoIT’s customers, rather than using those general funds to equitably lower rates for all customers, would be contrary to the fee mandate and could undermine the cost-basis of published rates, possibly resulting in excessive rates for non-subsidized customers.

SB409 subsidies will incentivize local governments to invest in the equipment required to participate in the DTRS system. If the subsidies are discontinued, local governments may not have sufficient budget to continue paying for DTRS service from DoIT or another vendor that supports the new equipment. Under those circumstances, DoIT will either need to continue providing service at no cost to the customer or terminate this essential public safety service for non-paying customers. Failing to collect fees will be contrary to NMSA 9-27-16.

PERFORMANCE IMPLICATIONS

ML notes “covering municipal public safety agencies’ subscriber fees is likely to lead to greater adoption of the DTRS system, positively impacting public safety in communities.”

ADMINISTRATIVE IMPLICATIONS

As noted above, DoIT would need to decide how best to administer the funding, which could require increases to their administrative capacity to oversee, distribute, and track funding.

ALTERNATIVES

DoIT provides the following possible alternatives:

Funds could be appropriated directly to the potential participating municipal, county, tribal and public safety entities to fund their DTRS subscriber fees.

Another possibility could be to make the appropriation to the Department of Finance and Administration Local Government Division for distribution to potential participating municipal, county, tribal and public safety entities to fund their DTRS subscriber fees.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If not enacted, local and tribal entities would be required to pay their own subscriber fees to DoIT or may not participate in the DTRS system due to cost barriers.

POSSIBLE QUESTIONS

Is DoIT intended to provide funding via grants, or will the department apply the funding as a credit toward existing municipal, county, and tribal subscriber bills?

How will the department determine who will receive the funding?

What criteria should the department use to administer funds?

Should only those entities who cannot afford to otherwise subscribe be funded by the appropriation, or are other entities who already pay their subscriber fees eligible? In other words, is this bill intended to help supplement costs for existing subscribers, or is it intended to address cost barriers to entry for new subscribers, or both?

Is the funding intended to cover the full subscriber cost of any particular county, municipality, or tribal organization, or is it intended to cover partial subscriber fees for several entities?

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