

the comma, the amendment inserts “multiplied by the percentage representing the proceeds of the legislative appropriation divided by the project costs.”

According to DCA, the amendment creates formula to clarify how the minimum purchase price would be determined, which is no less than the appropriation amount.

Synopsis of Original Bill

House Joint Resolution 8 grants approval to the Department of Cultural Affairs (DCA) for the lease-purchase of real property in Santa Fe County owned by the state for cash or cash-equivalent in an amount exceeding one hundred thousand dollars (\$100,000).

FISCAL IMPLICATIONS

There is no appropriation associated with this bill. DCA reports that upon completion of the rehearsal hall, the department will lease the facility to the Santa Fe Opera (SFO) for three months out of the year and will receive \$15 thousand per year from the SFO for at least three years, most likely five years.

SIGNIFICANT ISSUES

New Mexico statute (Section 13-6-3 NMSA 1978) requires Legislative ratification and approval of any sale, trade, or lease for a period exceeding twenty-five years in duration of real property belonging to a state agency if the sale, trade or lease is for a consideration of \$100 thousand or more. This Joint Resolution allows the Department of Cultural Affairs (DCA) to enter into a lease-purchase agreement with the Santa Fe Opera (SFO) for the lease and purchase of an open-air rehearsal hall. Construction of the facility is scheduled to begin later this year. Once the facility is completed, SFO will lease it, paying Fair Market Value (FMV) during the lease period. In addition to rental payments equal to FMV, SFO will make separate and distinct payments, in cash, cash equivalent, or in-kind services, toward the purchase of the facility. The facility’s purchase price will be based on FMV, but in no case shall it be less than the amount of funds appropriated by the Legislature for the construction and development of the facility (\$1,450,000).

The Attorney General’s Office notes that HJR 8 seeks legislative approval for the first time of the sale of a facility being built by the state specifically for the purpose of leasing and selling that facility to a private entity as set forth in the lease-purchase agreement. This may raise policy questions because this is the first time this type of transaction is being presented. (The parties have negotiated the final changes to the lease-purchase agreement and deed by which the land is to be donated. The AGO is not aware of any legal issues with those documents as finally negotiated.)

TECHNICAL ADJUSTMENTS

AGO reports that the purchase price is to be computed by multiplying the appraised value of the land and the hall (as determined at the time of the disposition) multiplied by the percentage representing the amount of state funding used in constructing the hall divided by the total project costs, but cannot be less than the total of state funds expended on the hall.