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## **F I S C A L   I M P A C T   R E P O R T**

**SPONSOR** Rodriguez, N      **ORIGINAL DATE** 02/08/15      **LAST UPDATED** 03/04/15      **HB**  
**SHORT TITLE** Santa Fe County Property Disposal      **SB** SJR 7/aSRC/aSFC  
**ANALYST** Hanika-Ortiz

### **REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY14</b>	<b>FY15</b>	<b>FY16</b>		
		\$1.4M	nonrecurring	property control reserve fund

(Parenthesis ( ) Indicate Revenue Decreases)

## **SOURCES OF INFORMATION**

### Responses Received From

General Services Department (GSD)

Department of Finance and Administration (DFA)

Public Education Department (PED)

## **SUMMARY**

### Synopsis of SFC Amendment to SJR 7/aSRC

The amendment clarifies terms for the written purchase agreement between the General Services Department (GSD) and New Mexico School for the Arts (NMSA); including that the purchase price for the property shall be the current appraised value plus closing and other costs incurred for the transfer, GSD granting an appurtenant right-of-way easement to NMSA, and reversion of the property to the state under the ownership, management or control of the GSD or the local school board in compliance with provisions of Subsection N of Section 22-8B-4 NMSA 1978.

Subsection N of Section 22-8B-4 NMSA 1978 relates to charter school operations and provides that a charter school may acquire and dispose of property; provided that, upon termination of the charter, all assets of the state-chartered charter school shall revert to the state, except that, if all or any portion of a state-chartered charter school facility is financed with the proceeds of general obligation bonds issued by a local school board, the facility shall revert to the local school board.

### Synopsis of Senate Rules Amendment

The amendment proposes terms for the purchase agreement; including the price at the current appraised value plus closing costs, NMSA granting an access easement to GSD, and reversion of

the property to the State under the management and control of GSD under certain conditions.

**Synopsis of Bill**

Senate Joint Resolution 7 (SJR 7) proposes the transfer of all or a portion of real property comprising approximately 11 acres in Santa Fe, New Mexico, to the New Mexico School for the Arts (NMSA), a state-chartered charter school, subject to ratification and approval of the Legislature and pursuant to the terms of a purchase agreement between GSD and the NMSA.

SJR 7 further provides that:

- Section 13-6-2 allows a state agency to sell or otherwise dispose of real property by negotiated sale or donation to a school district;
- Section 13-6-3 requires disposal of real property for consideration of \$100 thousand or more be subject to ratification and approval of the Legislature;
- GSD owns 11 acres located north of Siringo Road in Santa Fe recorded as document number 1605161 in Plat Book 719, Page 047, records of Santa Fe county, New Mexico;
- the NMSA, a residential statewide state-chartered high school, has need for all or a portion of the property to build a permanent campus; and
- NMSA has worked closely with GSD to identify this property as an appropriate site.

**FISCAL IMPLICATIONS**

The proceeds would go into the property control reserve fund to purchase, construct, renovate or plan for the construction or renovation of state buildings, to alleviate reliance on leased space.

**SIGNIFICANT ISSUES**

This Legislature would be delegating the authority to complete the transaction to GSD.

The 2014 appraisal included a “market value opinion” of \$1.4 million for the property.

SJR 7 further resolves the property has been appraised by an appraiser mutually agreed upon and approved by the Property Tax Division of the Taxation and Revenue Department (TRD). However, the appraisal still needs to be reviewed and validated by TRD, according to NMSA.

The NMSA, a state-chartered charter school, would become the owner of the land acquired. The NMSA has a public-private partnership in place and is looking to build a school that could accommodate 400 students at a cost between \$20 million and \$30 million. NMSA has a commitment of \$7 million from private sources, which they say would help with building costs.

**PERFORMANCE IMPLICATIONS**

Chapter 22, Article 15F NMSA 1978 created the New Mexico School for the Arts Act and states its purpose is to provide a statewide residential state-chartered charter school for grades nine through 12 that offers arts instruction in addition to an academic program; subjects the school and board to all provisions of the Charter Schools Act except for free tuition and admission requirements; and provides for state funds in the same manner as other charter high schools. The

school reports it raises about \$2 million each year to pay for arts instruction and student housing.

PED notes the transfer is between the GSD, a public entity, and NMSA, another public entity, and does not violate the anti-donation clause of the NM Constitution, Article IX, Section 14.

## **ADMINISTRATIVE IMPLICATIONS**

Vetting property dispositions became an issue when the Legislature, in HJR 8, approved the sale of a historic property in the capital complex to a private person. HJR 8 required that the property not be sold until the sale had been “reviewed” by the Capital Buildings Planning Commission (CBPC). This prompted much discussion about whether or not the term “reviewed” implied an approval process. In the end, CBPC only reviewed the sale, showing concerns and objections to the sale. The sale highlighted the need to clarify various roles in the disposition of real property.

DFA notes the State Board of Finance has requirements for real property dispositions that could be incorporated into legislative resolutions. Those requirements require submission of:

- 1) a quitclaim deed transferring title containing the legal description of the property;
- 2) a current appraisal and review of appraisal by TRD (when the buyer is another governmental entity, an appraisal and review of appraisal are not required);
- 3) a description of the reason for the sale or trade;
- 4) the selection process used to determine the purchaser;
- 5) purchase price and, if applicable, cost per square ft, per acre, etc;
- 6) sale agreements, if applicable;
- 7) resolution or minutes of the governing body, if applicable, authorizing sale or trade; and
- 8) approval by the state engineer of any transfer of water rights.

## **OTHER SUBSTANTIVE ISSUES**

NMSA is a Title 1 school and 46 percent of the students qualify for free or low-cost lunch.

GSD notes that a building on Tract D is currently leased to film production companies producing the TV series Manhattan and Longmire for storage. The lease does not expire until August 2015.

The New Mexico School for the Art's school charter expires June 30, 2019. PED reflected in its analysis that pursuant to Section 22-8B-4.2 NMSA 1978 an existing charter school shall not be renewed on or after July 1, 2015 unless the school is housed in a public building, has an approved lease purchase agreement, or is in a private facility that meets statewide adequacy standards pursuant to the Public School Capital Outlay Act and there are no public buildings available and the owner is a non-profit organized to provide a facility for that charter school.

During the interim, NMSA appeared before the CBPC to discuss the need for a new facility. The current site is the old St. Francis elementary school which has a capacity for 200 students. The proposed site is close to Santa Fe University of Art and Design which would allow collaboration. The proposed site occupies 11 acres, but with the arroyo, its useable space is about eight acres.