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FISCAL IMPACT REPORT

SPONSOR: Komadina DATE TYPED: 02/08/01 HB _____
 SHORT TITLE: Amend Procurement Code SB 301
 ANALYST: Carrillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		NFI			

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB88 (Amending the procurement Code) and HB89 (Resident Contraction Defined)

SOURCES OF INFORMATION

LFC Files
 State Highway and Transportation Department (SHTD)
 Commission on Higher Education (CHE)
 Office of the Attorney General (AG)
 General Services Department – No Response

SUMMARY

Synopsis of Bill

Senate Bill 301 proposes to delete the definition of resident manufacturer and the references to the five percent bid preference for resident contractors. The bill proposes to establish reciprocity, giving non-resident contractors the same bid advantage as a New Mexico resident contractor would have in the non-resident contractor’s domicile.

Significant Issues

SB 301 deletes the parts of the current law’s definition of resident contractor which requires the majority ownership of the business entity be owned by a New Mexico resident. The majority ownership requirements were held unconstitutional in *McCrossan v Rahn*, 96 F.Supp,2d 1238 (D.N.M. 2000).

According to GSD staff, New Mexico is one of seven states remaining with a resident preference statute. Most states have removed preference for resident businesses and adopted reciprocal

preferences, which have the effect of penalizing New Mexico businesses five percent when they attempt to do business in those states. The State Purchasing Agent records reflect the following in regard to "resident preference":

	1997	1998	1999	2000
# of Bidders Receiving a Resident Certificate Number	5,797	6,144	6,496	6,787
# of Contract Awards Based on the 5% Preference	40	43	27	34
Total Cost to the State	\$31,819.00	\$3,055.00	\$1,998.00	\$1,935.45

According to GSD staff, as the State moves more into the e-commerce arena, repealing the provisions dealing with residence preference (Sections 13-4-2, 13-1-21 and 13-1-22 NMSA 1978) would allow New Mexico businesses to freely compete without penalty, in all but those states that still have a residence preference statutes.

FISCAL IMPLICATIONS

None identified.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

Senate Bill 301 relates to HB 88 (Amending the Procurement Code) and HB 89 (Resident Contractor Defined).

WJC/njw:ar