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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/13
 SPONSOR Beffort LAST UPDATED 02/09/13 HB _____
 SHORT TITLE Childhood Development Services Procurement SB 247/aSPAC
 ANALYST Aledo-Sandoval

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 General Services Department (GSD)
 Children, Youth and Families Department (CYFD)
 Public Education Department (PED)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 247 (SB 247) removes the references to the Public Education Department and thereby only provides and exemption from the Procurement Code to the Children, Youth and Families Department for services purchased pursuant to the Pre-Kindergarten Act. The SPAC Amendment also removes the language that refers to services purchased that “support early childhood development and school readiness; projects and initiatives designed to improve outcomes for children at risk for school failure in Title I schools, and other projects and initiatives related to the improvement of pre-kindergarten program quality, oversight, data collection and professional development.”

Synopsis of Original Bill

Senate Bill 247 exempts the Public Education Department (PED) and the Children, Youth and Families Department (CYFD) from the Procurement Code for services purchased pursuant to the Pre-Kindergarten Act that support early childhood development and school readiness.

The bill will allow both PED and CYFD to allocate funding to Pre-Kindergarten funded programs without issuing professional services contracts or intergovernmental agreements. The PED also added that the bill eliminates the requirement to issue an RFP to solicit possible contractors for needed services.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

SPAC Amendment

According to the CYFD, the SPAC amendment will not affect the PED's delivery of direct pre-kindergarten services. The CYFD states that the PED currently has the ability to issue Request for Applications (RFA) and this amendment will not affect their ability to continue this process.

The General Services Department (GSD) notes that with the amendment, the State Purchasing Division is satisfied the scope of the exemption is tightly limited to pre-kindergarten services as defined under the Pre-Kindergarten Act.

Original Bill

During the fall of FY13, the Children, Youth and Families Department encountered problems and delays spending the \$1 million in new money for prekindergarten partly because of how the funding was being awarded. The CYFD went through the General Services Department's purchasing process instead of the Department of Finance and Administration's professional services contract process.

The PED states SB 247 would allow both departments to distribute funding in a more timely manner and would provide consistent funding to providers of pre-kindergarten services without interruption. The bill would allow the PED to fund school districts, charter schools and regional education cooperatives to provide pre-kindergarten programs using the PED's flow through process to allocate funding.

The CYFD noted that in 2011, the Public Education Department, the Children, Youth and Families Department, and the Department of Health began a collaborative endeavor to identify communities within the state where children are most at-risk for school failure. Ten socio-ecological and ten school/academic risk indicators were identified including percent of pre-term births, percent of low birth weight babies, poverty, juvenile arrests, school drop-out rate, births to mothers who did not complete high school, percent of Title I schools, and percent of elementary schools receiving a D or F grade. Data regarding the risk indicators was aggregated and then communities were ranked based on their degree of risk. A gap analysis of state-funded early childhood services was then conducted and it became clear that the great majority of the communities where children are most at-risk are also communities that lacked quality early childhood programs --- particularly New Mexico Pre-Kindergarten.

The CYFD indicated that typically the most at-risk communities have not responded to the CYFD Request for Proposal (RFP) for Pre-Kindergarten services and argues that providers in these communities may lack the capacity to adequately prepare a competitive RFP. The CYFD

stated that successful RFP respondents are usually providers in urban areas that often hire professional grant writers.

The CYFD highlighted the following characteristics which are common of communities ranked as having the most risk indicators for children:

- Social service agencies and schools within at-risk communities are deep in the trenches of survival – barely maintaining existing services in the community – and do not have the wherewithal to respond to an RFP
- Individuals operating social service agencies have never responded to a formal RFP and are intimidated by the process
- Many rural/isolated social service providers do not have internet access or the computer skills to respond to an RFP online
- Potential respondents in at-risk communities do not have a history of competing for state funds and are not aware of the RFP and/or do not view themselves as viable competitors
- Many who have responded to RFPs in the past have not been successful and have resigned themselves to not being able to successfully compete

The CYFD asserts that an exemption to the procurement process is needed to enable the PED and the CYFD to conduct a more accessible funding process that would enable all interested programs in the state to apply. Furthermore, the CYFD states that an exemption who allow the CYFD staff to support applications from disadvantaged communities where children are most in need of intervention services such as Pre-Kindergarten.

The DFA stated that there is no reason why the departments could not target the Pre-Kindergarten procurement to rural and/or high poverty areas of the state. The DFA further added that an argument could be made that an organization that lacks the capacity to submit a proposal that is responsive to an RFP may lack the expertise and/or resources necessary to appropriately manage a grant or contract in compliance with state rules and regulations.

The GSD states that generally, exemptions to the Procurement Code should not be encouraged; however, the State Purchasing Division understands the urgency and timeliness of implementation of the Pre-Kindergarten programs and has no objection to adding this exemption to the Procurement Code.

ADMINISTRATIVE IMPLICATIONS

The DFA notes that purchases made outside of the Procurement Code require an extra level of care and diligence both in procurement and management at the agency since there is no further oversight to the transactions. The question becomes whether the agencies have personnel who are capable of such activity.

The CYFD states that the administrative structure and mechanisms necessary to issue and monitor these Pre-Kindergarten contracts is already in place.

MAS/svb