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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/15
 LAST UPDATED 03/06/15 HB _____

SPONSOR Griego

SHORT TITLE Las Vegas Property Transfer SJR 6

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			See Fiscal Impact			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 6 (SJR 6) proposes the transfer of state-owned real property at 310 Mills Avenue in Las Vegas, New Mexico, from the State to the city of Las Vegas, New Mexico.

SJR 6 further provides that:

- Section 13-6-2 NMSA 1978 allows a state agency to sell or otherwise dispose of real property by negotiated sale or donation to a local public body;
- The city of Las Vegas originally donated the property to house a state agency and the state agency no longer uses the building or property;
- Section 13-6-3 NMSA 1978 requires that any sale, trade or lease exceeding 25 years of real property for \$100 thousand be subject to ratification and approval of the legislature;
- Section 1.5.23.7(K) NMAC states that "sale, trade or lease" means any disposition of real property, including donations by one governmental entity to another governmental entity;
- GSD owns the real property located at 301 Mills Avenue, Las Vegas, New Mexico containing 1.383 acres as shown on plat no. LS-79-72 dated July 30, 1979;
- the property is not needed by the State and should be returned to the city of Las Vegas;
- the city requires the property for city offices and other governmental functions; and
- the property has a value in excess of \$100 thousand.

FISCAL IMPLICATIONS

GSD and the city will need to work out the details relating to costs to transfer the property.

SIGNIFICANT ISSUES

SJR 6 asks the legislature to ratify and approve the transfer of real property from GSD to the city of Las Vegas contingent upon agreement by the parties in the conveyance document.



Section 13-6-3 NMSA 1978 requires any sale, trade or lease of state-owned real property worth \$100 thousand or more or leases longer than 25 years be approved by the Legislature in advance.

DFA will be introducing a bill suggesting improvements to processes related to vetting real property dispositions to ensure legal sufficiency and protection of the State’s interests.

ADMINISTRATIVE IMPLICATIONS

The property located at 301 Mills Avenue in Las Vegas is temporarily housing the Department of Vocational Rehabilitation (DVR). This occupation is for a short time until another state building in the area is ready for their use. After DVR vacates, GSD has no plans for the building.

TECHNICAL ISSUES

DFA’s comments included the following:

Use of the term “transfer” rather than “sell” or “donate” is unclear whether GSD is authorized to dispose of the property to the city for anything less than full market value consideration.

In theory, the Legislature might have in its possession an executable contract containing specific

terms and conditions to review and approve. In practice, however, the Legislature does not appear to be presented with an executable contract containing all terms and conditions. Therefore, in most real property disposition approvals, the Legislature should be understood to be delegating the authority to complete the transaction to the property-owning agency.

If the Legislature wishes to impose expectations upon the terms of the transaction it should communicate those expectations through contingencies and requirements. This is especially important in State-to-government transactions where a “transfer” of property could permissibly be completed as a "sale" with some level of consideration or a "donation" with no consideration.

OTHER SUBSTANTIVE ISSUES

DFA notes the State Board of Finance has requirements for its real property disposition reviews that could serve as a model for the types of requirements that could be incorporated into legislative resolutions. Those requirements require an entity disposing of real property to submit:

- 1) a quitclaim deed transferring title containing the legal description of the property;
- 2) a current appraisal and report of its review by the Taxation and Revenue Department (when the buyer is another governmental entity, neither an appraisal nor TRD review is 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, costs per square foot, per acre, per acre foot of water rights;
- 6) sale agreements, if applicable;
- 7) resolution or minutes of the governing body, if applicable, authorizing the sale or trade and containing a provision making the sale or trade subject to approval by the board; and
- 8) approval by the state engineer of any transfer of water rights.

Additional requirements include potential first right of refusal by land grants under Section 13-6-5 NMSA 1978.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The property located at 301 Mills Avenue in Las Vegas, NM will continue to be owned by GSD.

AHO/bb