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## FISCAL IMPACT REPORT

SPONSOR Clahchischilliage ORIGINAL DATE 03/06/17  
 LAST UPDATED \_\_\_\_\_ HB 416

SHORT TITLE State Treasurer Investment-Related Contracts SB \_\_\_\_\_

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### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See fiscal impact				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

General Services Department (GSD)

State Treasurer Office (STO)

### SUMMARY

#### Synopsis of Bill

House Bill 416 expands the list of exemptions in the Procurement Code by adding STO to a group of agencies exempted in Section 13-1-98 CC NMSA 1978 for the procurement of investment-related services. The group of agencies include the Educational Retirement Board (ERB), State Investment Council (SIC), and Public Employees Retirement Association (PERA).

### FISCAL IMPLICATIONS

There will be less competition for contracts issued by STO for investment-related services. In addition, outsourcing investment-related services is usually more expensive than internal management. However, outsourcing may contribute to greater investment returns over time.

STO suggests that currently the state treasurer is unable to respond quickly to market changes.

GSD suggests that a decrease in the use of exemptions in the Procurement Code may result in significant cost savings for the state by avoiding non-competitive procurement processes.

## **SIGNIFICANT ISSUES**

STO is currently not allowed an exemption under the Procurement Code for investment contracts as is the ERB, SIC and PERA. Exempt procurements are not required to follow the provisions of the Procurement Code, and so many do not pursue a competitive procurement process.

STO reports it currently manages \$2.4 billion in short-term investments for the State including the General Fund, State bond proceeds, and debt service. Additionally, millions of dollars in the Local Government Investment Pool (LGIP) are invested by STO on behalf of local governmental entities. The process currently in place by the Department of Finance and Administration and GSD to get general and professional services contracts approved does not provide the flexibility for a changing market economy. There are multiple external contracts required to support STO.

By statute, the LGIP is required to maintain a rating of AA or higher. Ratings of AA or higher provide assurances that securities held in the LGIP portfolio are consistent with stated objectives for short term funds: safety, liquidity, and maximization of yield. Last fiscal year, STO noted it attempted to enter into a contract with a rating entity. However, that entity withdrew its request because the contract could not be completed without the entity obtaining a NM tax ID number.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

According to a 2016 LFC report *Obtaining Value in State Procurement and Issues with Non-Competitive Methods*, there are currently 37 exemptions to the Procurement Code. The LFC evaluation team recommended setting up in law a sunset or delayed repeal provision so exemptions can be reviewed as to their continued suitability and repeal those no longer valid. This legislative session, HB 278 has been introduced that requires LFC and GSD to review all exemptions and provide recommendations on which ones to keep and which ones to repeal by December 31, 2018, and repeal all exemptions no longer valid six months later. The bill also requires all exempt procurements to be published for 30 days prior to award.

## **ALTERNATIVES**

Provide the state purchasing agent with the authority to determine whether exempting any investment-related services contract is the appropriate approach.

Require posting of all exempt contracts, not just investment-related, on the Sunshine Portal.

AHO/jle