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FISCAL IMPACT REPORT

SPONSOR: Campos DATE TYPED: 03/08/03 HB _____

SHORT TITLE: Capital Projects Act SB 413

ANALYST: L. Baca

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC files

Responses Received From

- Commission on Higher Education (CHE)
- Department of Finance and Administration (DFA)
- Energy, Minerals and Natural Resources Department (NMERD)
- General Services Department, Property Control Division (GSD)
- New Mexico Environment Department (NMED)
- New Mexico Finance Authority (NMFA)
- New Mexico State Highway and Transportation Department ((NMSHTD)

SUMMARY

Synopsis of Bill

Senate Bill 413, the Capital Projects Act, creates the Capital Projects Fund and the Capital Projects Council, a 12-member group of experts that would provide independent analysis of capital outlay requests; and would coordinate all planning, oversight, monitoring and reporting functions of state government regarding projects authorized by law, except those projects authorized pursuant to the provisions of the Public School Capital Outlay Act, the Public School Capital Improvements Act and those projects specifically excluded from the provisions of the Capital Projects Act.

Significant Issues

The purpose of the Act is to provide a cost-effective, independent evaluation and monitoring of capital outlay requests and projects. This is a laudable goal given the limited resources available and the need to obtain best value for money spent.

The provisions of SB 413 are to become effective on July 1, 2003, and the Council may begin its activities but may not accept proposals until July 1, 2004. The 12-member Council shall consist of six members appointed by the Governor, who serve at his pleasure, and may include cabinet secretaries or public members. The bill stipulates that other members of the Council shall be the State Engineer or his designee, and the executive directors or their designees of the following organizations: the Commission on Higher Education (CHE), New Mexico Municipal League, New Mexico Association of Counties, New Mexico Finance Authority, and a member representing Indian nations, tribes and pueblos.

Senate Bill 413 specifies the powers and duties of the Council. These include the adoption of rules necessary to carry out the provisions of the Act, hiring of staff, appointing committees or subcommittees, and applying for and receiving grants, accepting gifts, donations and bequests. The Council is required to prepare an annual budget, accept, evaluate and prioritize proposals for capital projects according to criteria and procedures presented to the Second Session of the Forty-sixth Legislature, and make recommendations to the legislature for the funding of capital projects.

FISCAL IMPLICATIONS

The bill does not contain an appropriation. However, expenses will be incurred to carry out the provisions of the bill between July, 2003, and June 30, 2004, even though no budget or appropriation is available to the Council. Costs incurred may be covered from budgets of existing agencies involved in the process.

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

In its analysis, the GSD states the continued roles of GSD and DFA in the capital projects arena are unclear. If a council is desired within the current process, it could be staffed by GSD and DFA. This and other issues raised by state agencies could be addressed through rules adopted by the Council. Some, however, may need to be addressed in the bill (See OTHER SUBSTANTIVE ISSUES).

OTHER SUBSTANTIVE ISSUES

In the analysis submitted by 7 state agencies, the issues raised included the following:

The bill creates a council whose work duplicates, to some extent, the current activities of the NMFA and the Water Trust Board. The NMFA analyzes and recommends a list of grant and loan projects to the Legislature for authorization and appropriation. These pro-

jects are prioritized based on rules approved by the Legislative Oversight Commission. (NMFA).

The relationship between the Council and managers of capital projects in agencies that receive capital funding is not clear. The effect on current review processes is not addressed (GSD).

The State Transportation Improvement Program (STIP) should be listed as one of the exemptions, and the bill should specifically require representation from the NMSHTD on the Council to facilitate the coordination of priorities in STIP and those set by the Council (NMSHTD).

The CHE has had a successful project review and prioritization process for several years. The creation of the Capital Projects Council would further support and enhance the CHE's capital projects process (CHE).

The proposed law includes road construction and water and wastewater systems as capital projects under the purview of the Council. However, cabinet secretaries for the Highway and Environment Departments are not included as members of the Council. They should be because these projects normally represent a significant portion of capital outlay projects (NMED).

The Capital Projects Act could make it more difficult for the State Parks Division (Division) of NMERD to make necessary repairs, renovations and construction of new state parks by adding another layer of bureaucracy by adding another layer of bureaucracy with limited park expertise to evaluate the proposed improvements. In addition, the bill would create conflicts within the Division in that individual park five-year management plans have aggressive timeframes that would need to be considered in the planning process (Division, NMERD).

Communities currently participate in the Infrastructure Capital Improvement Plan (ICIP) that requires public hearings. The ICIP is specifically recognized in the funding process of Community Development Block Grants (CDBG). The process does not require coordination with other entities or recognition of regional or state priorities. The implementation of the Council should recognize the existing process and expand it to the larger picture (DFA).