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FISCAL IMPACT REPORT

SPONSOR Ortiz y Pino DATE TYPED 3/1/05 HB _____

SHORT TITLE Annual Disclosure Of Public Contracts SB 960

ANALYST Hanika-Ortiz

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	None		\$0.1		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (AGO)
Administrative Office of the Courts (AOC)
Department of Finance and Administration (DFA)
New Mexico Corrections Department (NMCD)
New Mexico Public Education Department (NMPED)
Economic Development Department (EDD)
Public Regulation Commission (PRC)
Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

SB 960 requires the DFA and the TRD to submit an annual report on various statistics to the Governor, the New Mexico Legislative Council, the Legislative Finance Committee, the Revenue Stabilization and Tax Policy Committee and any other appropriate legislative committee charged with the study of economic development or tax incentives.

Significant Issues

Governor Richardson requires agencies to evaluate the essential needs for procurement and when practical perform those services in-house.

The DFA reporting responsibility would include all service contracts valued at \$20 thousand or more not to include tangible goods. Reported information is to include; length of contract; purpose and dollar value; person contracting to provide the service, including primary State of business; cost estimates supporting the need to contract versus state or other public employees providing the work; the revenue source for payment; and whether the contract was awarded as a “sole source”.

The TRD reporting responsibility would include any expenditure of bonds, grants, loans, loan guarantees, participation interests in loans, guaranteed debt investment in projects, tax increment financing and other enterprise zone property and infrastructure benefits assistance for economic development projects directed toward attracting new businesses into the state. Reported information is to include: state and local government economic development incentives; the recipients of the incentive and the intended objectives and outcomes of the incentive; the total amount of expenditures or public revenues foregone or the current value of the incentive received by recipients in each calendar year; the number of recipients benefiting from each economic development incentive; where permitted by law, the names and amounts of the incentive to each recipient; the number of jobs created or new employees hired; the employees’ wage or salary, gender and state of residence prior to employment; and health care coverage information provided to each recipient for its employees. Tax expenditure information shall include the estimated revenue loss to the state within the past five years.

The TRD would work with the DFA, the State Investment Officer and representatives of municipalities and counties in compiling certain information requested. The TRD may also request that recipients of economic development incentives file annual reports providing appropriate information in order to better assess and evaluate state and local incentive policies.

PERFORMANCE IMPLICATIONS

DFA reports Professional Services Contract information to the Governor and Legislature monthly. This information includes the department, name of contractor, term, scope of work, amount and revenue source. The information also shows if services are from a sole source provider, emergencies, small purchases or provided through the Request for Proposals (RFP) process.

DFA notes that in recent years, Professional Services Contracts are approximately 70% for contracts that are \$20 thousand or less. For contracts over \$20 thousand, agencies procure services through the RFP process as per the Procurement Code. Records and documentation for the RFP process are retained at the agency.

FISCAL IMPLICATIONS

A current and accurate accounting of the State’s investments is needed to assist the legislature in future planning decisions.

The administrative costs would be dependent on the systems used by TRD, RLD and EDD to store, retrieve and report information, and the staff time required to implement the provisions in the bill.

The EDD notes money obligated or awarded to communities is not always spent within the required timeline reducing the economic benefit of the incentive to the community.

TECHNICAL ISSUES

If DFA were to review all services contracts, it would be duplicating efforts with SPD and Office of the Chief Information Officer since they currently process contracts for other services and Information Technology.

The Act calls for an annual disclosure of “services contract,” defined in the Act as a contract valued at \$20 thousand or more to provide information or other services, but not tangible goods, to the state. The title of the Act may need clarification as it requires the annual disclosure of “all public contracts”.

The AGO notes several unclear terms:

1. In Section 1 the bill uses a content bias word “generosity.”
2. In Section 2 the bill requires information on “the length of time to fully complete the entire task as well as the length of the contract.” That appears to be the same information requested twice.
3. In Section 2 there may be conflicting interpretations for the statement “specifics of the purchasing negotiations.”
4. In Section 2 the bill uses the term “services contract.” It is unclear which definition applies; the definition of “services” in the Procurement Code, NMSA 1978, Section 13-1-87, or the definition for professional services in Section 13-1-76.
5. In Section 3 there may be conflicting interpretations for the statement “tax expenditure ... that ... decreases public revenues.”
6. In Section 4 the bill requires TRD to work with “representatives of municipalities and counties”, but is not specific regarding which designated staff members.

OTHER SUBSTANTIVE ISSUES

SB 960 may assist the State enhance the taxpayers knowledge of how funds are being utilized for a communities’ economic development.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

There may be continued confusion from the general public and legislators if economic development contracts and incentives are being used effectively.

AHO/lg