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SENATE BILL 258

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Howie C. Morales

AN ACT

RELATING TO HEALTH FACILITIES; AUTHORIZING THE STATE TO ACQUIRE
A FACILITY TO REPLACE FORT BAYARD MEDICAL CENTER; AUTHORIZING
CERTAIN AGREEMENTS TO EFFECTUATE THE ACQUISITION; RATIFYING AND
APPROVING A LEASE-PURCHASE AGREEMENT; PROVIDING EXEMPTIONS FROM
THE PROCUREMENT CODE; RECONCILING MULTIPLE AMENDMENTS TO THE
SAME SECTION OF LAW IN LAWS 2007; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-7-6.5 NMSA 1978 (being Laws 2005,
Chapter 317, Section 1) is amended to read:

"9-7-6.5. AGREEMENTS FOR [~~OPERATION OF OR CONSTRUCTION~~
~~OF~~] A REPLACEMENT FACILITY FOR FORT BAYARD MEDICAL CENTER.--

A. Notwithstanding any other provision of state law
or rule, the secretary may do one or more of the following:

- (1) enter into an agreement, including an

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1 agreement with an independent contractor, to operate Fort
2 Bayard medical center or a replacement for Fort Bayard medical
3 center in Grant county; [or]

4 (2) ~~[in conjunction with the property control~~
5 ~~division of the general services department, the state land~~
6 ~~office or other appropriate state agency, enter into a lease or~~
7 ~~other long-term use agreement of not more than twenty-five~~
8 ~~years with an independent contractor or the owner of the~~
9 ~~facility for the provision and operation of]~~ acquire by
10 purchase, lease, construction, lease-purchase or other
11 financing arrangement a facility to be located in Grant county
12 to replace Fort Bayard medical center, provided that, if the
13 acquisition results in the transfer of the title to the
14 facility, the title to the facility shall be in the name of the
15 property control division of the general services department;
16 or

17 (3) enter into an agreement with Grant county
18 under which the department may construct or cause to be
19 constructed the facility that will replace the Fort Bayard
20 medical center.

21 B. The provisions of the Procurement Code shall not
22 apply to the procurement, ~~[of an agreement entered into by the~~
23 ~~secretary pursuant to]~~ by either the department or Grant county
24 or both, of services or construction deemed necessary by the
25 department to effectuate the provisions of this section.

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1 However, agreements related to the acquisition of the facility
2 to replace Fort Bayard medical center shall be subject to the
3 provisions of state law regulating the acquisition and disposal
4 of real property by governmental entities.

5 C. An operating agreement entered into pursuant to
6 this section shall include provisions for the continued
7 employment of all current and future Fort Bayard medical center
8 employees, excluding management employees of the contractor, as
9 state employees, entitled and subject to all the rights and
10 responsibilities of state employees. Under the terms of the
11 agreement and the overall direction of the department, the
12 independent contractor shall provide management and supervision
13 to state employees at Fort Bayard medical center, including the
14 provision of work assignments, evaluations and promotional and
15 disciplinary actions.

16 D. Pursuant to Section 15-3-35 NMSA 1978, the
17 legislature ratifies and approves a lease-purchase agreement,
18 in a form approved by the state board of finance, between the
19 department, as lessee-purchaser and Grant county, as lessor-
20 seller, for the facility that will replace the Fort Bayard
21 medical center, provided that, upon transfer of title, title to
22 the facility shall be in the name of the property control
23 division of the general services department."

24 Section 2. Section 13-1-98 NMSA 1978 (being Laws 1984,
25 Chapter 65, Section 71, as amended by Laws 2007, Chapter 55,
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1 Section 1 and by Laws 2007, Chapter 345, Section 1) is amended
2 to read:

3 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
4 provisions of the Procurement Code shall not apply to:

5 A. procurement of items of tangible personal
6 property or services by a state agency or a local public body
7 from a state agency, a local public body or external
8 procurement unit except as otherwise provided in Sections
9 13-1-135 through 13-1-137 NMSA 1978;

10 B. procurement of tangible personal property or
11 services for the governor's mansion and grounds;

12 C. printing and duplicating contracts involving
13 materials that are required to be filed in connection with
14 proceedings before administrative agencies or state or federal
15 courts;

16 D. purchases of publicly provided or publicly
17 regulated gas, electricity, water, sewer and refuse collection
18 services;

19 E. purchases of books and periodicals from the
20 publishers or copyright holders thereof;

21 F. travel or shipping by common carrier or by
22 private conveyance or to meals and lodging;

23 G. purchase of livestock at auction rings or to the
24 procurement of animals to be used for research and
25 experimentation or exhibit;

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1 H. contracts with businesses for public school
2 transportation services;

3 I. procurement of tangible personal property or
4 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
5 by the corrections industries division of the corrections
6 department pursuant to rules adopted by the corrections
7 industries commission, which shall be reviewed by the
8 purchasing division of the general services department prior to
9 adoption;

10 J. minor purchases not exceeding five thousand
11 dollars (\$5,000) consisting of magazine subscriptions,
12 conference registration fees and other similar purchases where
13 prepayments are required;

14 K. municipalities having adopted home rule charters
15 and having enacted their own purchasing ordinances;

16 L. the issuance, sale and delivery of public
17 securities pursuant to the applicable authorizing statute, with
18 the exception of bond attorneys and general financial
19 consultants;

20 M. contracts entered into by a local public body
21 with a private independent contractor for the operation, or
22 provision and operation, of a jail pursuant to Sections
23 33-3-26 and 33-3-27 NMSA 1978;

24 N. contracts for maintenance of grounds and
25 facilities at highway rest stops and other employment

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1 opportunities, excluding those intended for the direct care and
2 support of persons with handicaps, entered into by state
3 agencies with private, nonprofit, independent contractors who
4 provide services to persons with handicaps;

5 O. contracts and expenditures for services or items
6 of tangible personal property to be paid or compensated by
7 money or other property transferred to New Mexico law
8 enforcement agencies by the United States department of justice
9 drug enforcement administration;

10 P. contracts for retirement and other benefits
11 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

12 Q. contracts with professional entertainers;

13 R. contracts and expenditures for litigation
14 expenses in connection with proceedings before administrative
15 agencies or state or federal courts, including experts,
16 mediators, court reporters, process servers and witness fees,
17 but not including attorney contracts;

18 S. contracts for service relating to the design,
19 engineering, financing, construction and acquisition of public
20 improvements undertaken in improvement districts pursuant to
21 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
22 improvement districts pursuant to Subsection L of Section
23 4-55A-12.1 NMSA 1978;

24 T. works of art for museums or for display in
25 public buildings or places;

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1 U. contracts entered into by a local public body
2 with a person, firm, organization, corporation or association
3 or a state educational institution named in Article 12, Section
4 11 of the constitution of New Mexico for the operation and
5 maintenance of a hospital pursuant to Chapter 3, Article 44
6 NMSA 1978, lease or operation of a county hospital pursuant to
7 the Hospital Funding Act or operation and maintenance of a
8 hospital pursuant to the Special Hospital District Act;

9 V. purchases of advertising in all media, including
10 radio, television, print and electronic;

11 W. purchases of promotional goods intended for
12 resale by the tourism department;

13 X. procurement of printing services for materials
14 produced and intended for resale by the cultural affairs
15 department;

16 Y. procurement by or through the public education
17 department from the federal department of education relating to
18 parent training and information centers designed to increase
19 parent participation, projects and initiatives designed to
20 improve outcomes for students with disabilities and other
21 projects and initiatives relating to the administration of
22 improvement strategy programs pursuant to the federal
23 Individuals with Disabilities Education Act; provided that the
24 exemption applies only to procurement of services not to exceed
25 two hundred thousand dollars (\$200,000);

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1 Z. procurement of services from community
2 rehabilitation programs or qualified individuals pursuant to
3 the State Use Act;

4 AA. purchases of products or services for eligible
5 persons with disabilities pursuant to the federal
6 Rehabilitation Act of 1973;

7 BB. procurement, ~~[of an agreement, pursuant to~~
8 ~~Section 9-7-6.5 NMSA 1978, to operate Fort Bayard medical~~
9 ~~center or to provide and operate in Grant county a replacement~~
10 ~~facility for Fort Bayard medical center]~~ by either the
11 department of health or Grant county or both, of services or
12 construction that are exempt from the Procurement Code pursuant
13 to Section 9-7-6.5 NMSA 1978;

14 CC. contracts for investment advisory services,
15 investment management services or other investment-related
16 services entered into by the educational retirement board, the
17 state investment officer or the retirement board created
18 pursuant to the Public Employees Retirement Act; and

19 ~~[CC.]~~ DD. the purchase for resale by the state fair
20 commission of feed and other items necessary for the upkeep of
21 livestock."

22 Section 3. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect immediately.