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FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/08

SPONSOR King LAST UPDATED _____ HJR 13

SHORT TITLE Wastewater Treatment System Long-Term Lease SB _____

ANALYST Propst

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$83.8	\$147.6	\$147.6	\$379.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)
New Mexico Corrections Department

SUMMARY

Synopsis of Bill

House Joint Resolution 13 authorizes the Property Control Division (PCD) of the General Services Department (GSD) to lease to Santa Fe County for up to 99 years the existing wastewater treatment system at the Penitentiary of New Mexico (PNM), and specifically excluding transfer of water rights owned by the state. The wastewater system includes buildings, lagoons, storage ponds and adjacent land totaling 135.6 acres. Santa Fe County would provide a seven percent reduction for ten years to the current state-agency users of the wastewater system (PNM and the New Mexico National Guard) for wastewater charges.

FISCAL IMPLICATIONS

According to GSD, the transfer proposed in HJR 13 will result in a recurring operating budget increase for the Penitentiary of New Mexico (PNM), retroactive to January 2008. PNM does not pay for wastewater treatment services under the current lease between GSD and Santa Fe County, and the Corrections Department (CD) is not funded for wastewater charges to PNM in FY08 or FY09.

The cost estimate for the Corrections Department, based on current usage of more than 3.5 million gallons a month, would be \$135.9 thousand a year for PNM. After the 10-year discount, the recurring cost to PNM would increase by 7%. The annual cost for the NM National Guard

would be reduced by \$882 a year (current cost of \$12.6 thousand minus 7% discount equals \$11.7 thousand).

NMCD added that even assuming a 7% reduction in the commodity charge, NMCD would still have to pay at least \$135.9 thousand each year for the next ten years in commodity charges to Santa Fe County for its wastewater flow from the Penitentiary of New Mexico and the Central Office administrative complex. The bill appropriates no money to NMCD to defray or pay these significant costs. Further, if the commodity charge increases in the future, and it is likely to do so, then these costs would be even greater in years to come. If the facility were to become the property of Santa Fe County, NMCD would have no control over the amount charged to it by the County.

SIGNIFICANT ISSUES

GSD points out that:

- PNM Budget Issues: Under the expiring lease, the CD does not pay for its use of the wastewater treatment system at the PNM. HJR 13 does not address the budget deficiency that would be caused retroactive to January 2008. In addition, the seven percent discount on usage for ten years may not adequately compensate the State for the asset value of the wastewater treatment facility and land upon which it is located. The Corrections Department budget concerns could be ameliorated by requiring sufficient budget for CD prior to implementation of a long-term lease.
- Water Conservation: There is concern about the lack of water-conservation devices at the PNM facilities which could significantly reduce PNM wastewater flow and improve viability of the operational lease.

NMCD notes that it has had this property on its inventory for many years. NMCD would like to keep this property in its inventory, and has the expertise and experience to operate the wastewater facility on its own if needed. PNM has the ability to discharge 85,000 gallons of wastewater per day into the plant at no cost to NMCD. The wastewater plant has been a part of the Penitentiary of New Mexico since 1954 and was upgraded in 1981. PCD has assured NMCD that any lease of the plant will have to take NMCD's fiscal and other concerns into consideration.

In addition to the fiscal and other concerns mentioned above, NMCD also currently utilizes its lift stations located at the Penitentiary Level V prison and at the wastewater plant to trap and retrieve contraband (illegal drugs or other contraband) that might be flushed down a prison toilet by inmates. NMCD's loss of this facility would interfere with its continued use of the trap at the wastewater facility. NMCD's loss of this wastewater facility would also prevent it from being able to use the treated water to irrigate its fields located on the grounds of the Penitentiary.

DUPLICATION

HJR 13 is a duplicate of SRC substitute for SJR 10.

AMENDMENTS

To hold CD harmless for the budget shortfall caused by HJR 13, GSD recommends the following amendment: On Page 3, between lines 17 and 18, insert the following language:

“BE IT FURTHER RESOLVED that the charges to the corrections department authorized herein for use of wastewater flow are contingent upon the corrections department receiving increased funding to pay those charges; and”

WEP/bb