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FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/13
 LAST UPDATED 03/04/13 HB _____

SPONSOR Ortiz y Pino

SHORT TITLE State-Owned Railroad Property Disposal SB 555/aSPAC

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)
 Department of Transportation (DOT)
 Attorney General's Office (AGO)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 555 adds language to provide for other methods of disposal as authorized by law. The amendment also requires authorization by the DOT before the trade, exchange or disposal of tangible personal property of a state-owned railroad.

Synopsis of Original Bill

Senate Bill 555 (SB 555) adds a new section to the Procurement Code to expressly allow the trade, exchange or disposal of tangible personal property for a state-owned railroad. The bill authorizes a central purchasing office to require a request for proposals and provides that the property may be traded, exchanged or disposed of pursuant to a contract if the amount is a fair reflection of the current value, representative of the condition of the property, in the best interest of the agency and the cost itemized for trade, exchange or disposal.

FISCAL IMPLICATIONS

The DOT reports the bill could reduce the cost of disposing of tangible personal property salvaged from the state-owned railroad. The Department owns 132 miles of railroad in 4 counties. The New Mexico Rail Runner, BNSF Railway Company, Amtrak and Santa Fe Southern Railway use the railroad for rail passenger and freight service.

SIGNIFICANT ISSUES

The DOT has an agreement that designates Rio Metro as the agency for Rail Runner management, operations and maintenance. The Rio Metro contracts with private companies to conduct maintenance of the DOT-owned railroad.

The DOT reports the bill provides statutory authority to dispose of, trade or exchange railroad property pursuant to the procurement process in the bill. An example of such procurement would be a contract executed between Rio Metro and a contractor to replace obsolete or damaged railroad ties. The bill would allow the Rio Metro or DOT to procure a contractor to remove, dispose of, or retain the old railroad ties. In consideration for the salvaged railroad ties, the contractor would provide an offset to the cost of acquisition of the new ties and/or removal of the old ties and installation of the new ties.

PERFORMANCE IMPLICATIONS

The AGO notes that the transaction must reflect current market value so there should not be an anti-donation clause issue.

TECHNICAL ISSUES

The DOT is concerned that the bill may allow Rio Metro to sell, dispose of or exchange DOT-owned railroad tangible personal property without the Department's approval.

SUBSTANTIVE ISSUES

Section 13-1-156 NMSA 1978 also provides for the trade, exchange or disposal of tangible personal property. This section of law provides that a central purchasing office, when trading in or exchanging used items which exceed \$5,000 in value as part-payment for new items, shall require the invitation-to-bid or request-for-proposal to contain a description, an independent appraised value and the location where items may be inspected; or have two written quotes at a specified price. This section of law also provides that bidders or offerors shall compute their net bid or offer by deducting the appraised value or highest quote of the items to be traded in or exchanged from the gross bid or offer on the new items to be procured. If an amount offered in trade is less than the appraised value or the highest quote but is found to be a fair reflection of the current market, representative of the condition of the items of tangible personal property and in the best interest of the agency, the bid or offer may be accepted.