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FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/21

SPONSOR HJC LAST UPDATED _____ HJR 9/HJCS

SHORT TITLE Public Assistance For Infrastructure Dev, CA SB _____

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Capital Outlay		Indeterminate			Recurring	General Fund/OSF
SoS		\$150.0- \$200.0		\$150.0- \$200.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received For The Original Bill

New Mexico Attorney General (NMAG)

New Mexico Mortgage Finance Authority (MFA)

SUMMARY

Synopsis of Substitute Bill

The House Judiciary Committee substitute proposes to refer to voters an amendment to the “anti-donation clause” (Article 9, Section 14 of the New Mexico constitution) to be able to use state funds for infrastructure that allows essential household services to be connected to a domicile.

Specifically, the substitute bill adds a new subsection H to Article 9, Section 14. The proposed subsection H allows, by a majority vote, the use of state funds to provide “essential household services”, defined as infrastructure for the connection of Internet, electric, natural gas, water, wastewater or other services to homes. Legislation implementing the amendment must contain safeguards protecting public money and projects providing assistance must be approved by law.

If passed, the bill would be submitted to the voters of New Mexico for their approval or rejection at the next general election or at any special election that may be called for this purpose.

FISCAL IMPLICATIONS

The state would be allowed to pledge or lend public money to any person, association, public or private corporation with the essential services being provided considered adequate in exchange.

Because of provisions in the constitution of New Mexico, capital outlay, which is primarily from nonrecurring general fund revenue and bonds, can only be used for government-owned facilities. Nonrecurring general fund revenue is the money left over after the Legislature has funded state government and public schools and set aside money for reserves. If the capital outlay process is used to provide this resource, it could reduce funding available for statewide and local projects.

There is no requirement assistance be used to connect only low income households to services.

According to MFA, the Affordable Housing Act allows for public funds to be used for some of these activities (“infrastructure improvements” as defined in the Affordable Housing Act) when creating or preserving affordable housing, which means residential housing primarily for persons or households of low or moderate income. The passage of this amendment would allow similar infrastructure activities to be funded by the government without an affordable housing purpose. As MFA and its partners already have the ability to fund “infrastructure improvements” under the Affordable Housing Act, MFA commented this amendment would likely not impact them.

Under Section 1-16-4 NMSA 1978 and the constitution of New Mexico, the Secretary of State (SOS) must print samples of each constitutional amendment, in both Spanish and English. SOS is also required to publish them once a week for four weeks before the election in newspapers in every county in the state. The estimated cost per constitutional amendment is \$150 - \$200 thousand depending on the size and number of ballots and if additional ballot stations are needed.

SIGNIFICANT ISSUES

The substitute bill expands use of the term “essential household services” to include “other services provided by law.” Essential services typically include services and functions that are absolutely necessary to maintain the health and welfare of a community. They can include healthcare, fire and police protection, sanitation, transportation, and road maintenance and repair.

The bill proposes another exception to the “anti-donation clause” which currently limits the state, counties, school districts or municipalities to lend or pledge its credit or make any donation to or in aid of any person, association, or public or private corporation except as provided for in the following subsections: (A) for the care and maintenance of sick and indigent persons; (B) for tuition exemptions for certain veterans; (C) for loans to students of the healing arts in exchange for practicing in the state; (D) to create new job opportunities by providing land, buildings or infrastructure for facilities through legislation that specifies the method of approving projects; (E) and (F) to support affordable housing projects under certain conditions as set forth; and (G) to establish a veterans’ scholarship program to exempt certain military war veterans from tuition.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SJR9, Repeal Anti-Donation, CA

OTHER SUBSTANTIVE ISSUES

State and federal investment have improve broadband connectivity in schools and hospitals, and other institutions, but low-income families with students and the elderly, especially those in rural areas that are underserved, disproportionately lack access to high-speed Internet at home. Pew has reported that broadband access is closely correlated with educational attainment and age.

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