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FISCAL IMPACT REPORT

SPONSOR <u>Hochman-Vigil/Stefanics</u> SHORT TITLE <u>Inclusion of Bike Lane in Road Improvements</u>	LAST UPDATED _____ ORIGINAL DATE <u>2/27/2023</u> BILL NUMBER <u>House Bill 408</u> ANALYST <u>Hanika-Ortiz</u>
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APPROPRIATION* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
	\$5,000.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Department of Transportation (NMDOT)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of House Bill 408

House Bill 408 (HB408) appropriates \$5 million from the general fund to DFA for expenditure in FY24 and subsequent fiscal years to construct protected bicycle lanes in municipalities. The bill applies to roadway improvements that begin on or after January 1, 2024.

More specifically,

(A) includes definitions such as “protected bicycle lane” to mean a lane adjacent to a roadway and separated from traffic by a year-round barrier and includes permanent and temporary physical barriers and permanent non-physical barriers, and “roadway improvement” to mean the construction of a new road or intersection and the reconstruction, rebuilding, expanding or alteration of an existing road or intersection, excluding routine maintenance and repairs.

(B) states when a roadway improvement is in a municipality with at least a population of 10 thousand, a protected bicycle lane with permanent physical barriers shall be incorporated, unless:

- (1) NMDOT approves use of permanent non-physical or temporary physical barriers; or
- (2) NMDOT approves a municipality or county's analysis suggesting it is impractical, due

to:

- (a) existence of a bicycle lane, pedestrian facility or alternative;
- (b) unique characteristics, features or usage of a roadway or neighborhood;
- (c) prohibitive financial constraints, such as moving a utility line; or
- (d) environmental or cultural resource considerations.

(C) states a bicycle lane built need not provide separation between the bicycle lane and vehicle traffic when accommodating intersections, crosswalks, accessible parking, and accessible loading.

(D) states for routine maintenance and repairs, any existing bicycle lanes shall remain unaffected. If that is not feasible, the bicycle lane shall be restored or improved after the work is completed.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

HB408 appropriates \$5 million from the general fund to DFA for FY24 and subsequent fiscal years until the funds are depleted. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund. DFA's Local Government Division (LGD) would need to consult NMDOT to assure that projects are in compliance with rules and regulations associated with road projects.

DFA says its LGD does not manage road projects and recommends NMDOT administer the appropriation. However, NMDOT explained that it has no authority to construct protected bicycle lanes on roads outside the jurisdiction of NMDOT. This authority lies with the local municipality.

SIGNIFICANT ISSUES

NMDOT provided the following comments:

Physical barriers are not necessary or appropriate for all streets. The American Association of Highway and Transportation Officials (AASHTO) Roadside Design Guide generally discourages the placement of physical barriers unless the condition without physical barriers is worse.

Physical barriers in urban areas will have a number of openings to accommodate intersections, crosswalks, parking and loading for motorized vehicles. The necessary termination and beginning of the physical barrier for those accommodations could leave blunt ends that will result in non-crashworthy conditions for the traveling public.

Additionally, a bicycle lane separated from the road by a physical barrier will restrict the ability of maintenance to keep the bicycle lane free from dangerous debris. This includes limited access to the protected area and lack of equipment available to work in the confined areas created by physical barriers. The physical barrier may also impact width requirements under American with Disabilities Act which cannot be compromised.

PERFORMANCE IMPLICATIONS

Under Section 67-3-62 NMSA 1978, NMDOT notes it is currently required to make provisions for pedestrian, bicycle, and equestrian traffic along NMDOT-owned highways when constructing highways along new alignments or for purposes of substantially widening highways along the existing alignments. NMDOT utilizes the New Mexico Prioritized Statewide Bicycle Network Plan (NM Bike Plan) to provide guidance on the robustness of bicycle infrastructure given the roadway's tier on the prioritized network and the roadway context including posted speed limit, rural or urban context, and Annual Average Daily Traffic (AADT). Additionally, NMDOT is moving towards a Complete Streets Plan to address requirements under the federal Infrastructure Investment and Jobs Act that will help to guide designers on types of barriers used on streets.

ADMINISTRATIVE IMPLICATIONS

DFA would promulgate rules and procedures to implement the provisions of Subsection B of this section. NMDOT would also need to promulgate rules and procedures for DFA to use when not requiring a roadway improvement to include a protected bicycle lane with permanent physical barriers for certain exceptions. NMDOT has staffing resources in place to manage this process.

ALTERNATIVES

Continue to support NMDOT's efforts to provide for bicycle traffic when constructing NMDOT owned highways in municipalities, and to continue to use guidance from AASHTO and the NM Bike Plan for providing accessible bicycle infrastructure and location and types of barriers to use.

AHO/rl/ne