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FISCAL IMPACT REPORT

SPONSOR: King DATE TYPED: 03/03/03 HB HJR 28/aHGUAC

SHORT TITLE: Santa Fe Penitentiary Long-Term Lease SB _____

ANALYST: Geisler

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		.01 See Narrative		

(Parenthesis () Indicate Revenue Decreases)

Duplicates: SJR 26

SOURCES OF INFORMATION

General Services Department (GSD)
 Department of Corrections (DOC)
 Economic Development Department (EDD)
 Santa Fe County (SFC)

SUMMARY

Synopsis of HGUAC Amendment

The House Government and Urban Affairs Committee amendment to House Joint Resolution 28

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added a requirement for approval from GSD, DOC, EDD, and SFC before a lease of the Santa Fe Penitentiary can become effective.

Synopsis of Original Bill

House Joint Resolution 28 authorizes the Property Control Division (PCD) of the General Services Department (GSD) to lease the “old main” facility at the Penitentiary of New Mexico (PNM) to Santa Fe County for up to 99 years. Santa Fe County could construct a public safety training facility to be used by various law enforcement and emergency agencies in north-central New Mexico.

Significant Issues

PCD is charged with assigning property under its jurisdiction for “the best and highest beneficial use of the property”. The Corrections Department, Economic Development Department, and Santa Fe County are all interested parties and have been engaged in discussions about the facility. When an agreement has been reached after consultation among the parties and the concept approved by the Executive, PCD will evaluate the plan and support the effort. Comments from EDD, DOC, and Santa Fe County follow.

The Economic Development Department provided the following:

The New Mexico Film Office has a joint powers agreement with the PCD and the Corrections Department to make the “old main” section of the Penitentiary available for use by the motion picture industry at reasonable market rates. The EDD is concerned that the use of this facility remains an option for the motion picture industry.

The Department of Corrections provided the following concerns related to the impact of the lease on their existing operations:

1. Leasing this section or portion of the grounds of the Penitentiary should not interfere with the operation of the remaining prison facilities. There are security concerns when non-correctional staff are operating around prison facilities. This increases the possibilities of escape and introduction of contraband.
2. There are some programs and activities that remain in the old main facility or within close proximity. There is the Alice King Visitors Center, which includes a facility used to care for children while their parents visit inmate family members. There are also the modular units used for extended visits between inmates and their spouses and other immediate family. There are Corrections Industries programs still located at the old main unit. If these facilities have to be moved, it will require additional construction.
3. All of the water lines and sewer lines for the entire Penitentiary complex (North Unit, South Unit, Minimum Restrict Unit and Central Office complex) are “tied in” or routed through the old Main Unit.
4. The 287 acre feet per year of water rights that belong to the Penitentiary of New Mexico at this location could be jeopardized by the lease, or the State Engineer could refuse to allow the water from the Penitentiary wells to be used for the training facility. The State Engineer

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in the past has objected /raised concerns about the use of water from wells for any purpose other than those directly related to housing inmates at the Penitentiary.

Santa Fe County provides:

1. The plan for a public safety training complex will not interfere with existing uses and the county is committed to work with DOC and EDD to address their concerns.
2. A public safety training facility is needed for Fire/Rescue/EMS, law enforcement and corrections agencies in the northern half of the state and use of this site will take advantage existing infrastructure.
3. Use as a Public Safety Training Facility would allow NM to leverage the existing facility + \$1.5 million in Santa Fe County Bond Money to secure federal Dept of Justice, Dept of Energy and Homeland Security Grant Money for the state.

FISCAL IMPLICATIONS

PCD would not anticipate any fiscal impact until a plan is presented that may involve architectural/construction services.

EDD provides that should the entire “old main” facility be leased to Santa Fe County, the New Mexico film industry stands to lose upwards of \$15 million in economic impact in just one year from the filming of potential projects. Five separate film projects presently have interest in locating to New Mexico solely on the basis of use of the “old main” facility. A television series for 20th Century Fox is currently considering a series for network television to be shot entirely at this facility. There are less than a handful of locations in the U.S. that offer competition, which is why this site is so desirable.

Depending on the specifics of the lease, DOC notes that there could be substantial costs involved in constructing new buildings and relocating the program activities that remain in or near the Main Unit, including the Alice King Visitors Center, the modular units used for family visiting and some Corrections Industries equipment and facilities. Additional fencing, paving and equipment to control access and ensure security may be necessary.

CONFLICT AND DUPLICATION

HJR 28 duplicates SJR 26.

A number of state agencies believe that there may be a conflict with existing statutes.

- Section 15-3-6.1 NMSA 1978 requires PCD, the Corrections Department and the New Mexico Film Division of the Economic Development Department to enter into a joint powers agreement to make the old main facility available for use by the motion picture industry at reasonable market rates.
- Section 15-3B-7.1 NMSA 1978 requires PCD to allow the motion picture industry free access to state buildings.

TECHNICAL ISSUES

DOC points out that there is no legal description of the “Old Main” facility of the Penitentiary of New Mexico. The building simply is sited on the much larger grounds of the Penitentiary of New Mexico, which again, includes the North Unit, South Unit and Minimum Restrict Unit.

OTHER SUBSTANTIVE ISSUES

Discussions were held among PCD, CD and EDD but no joint powers agreement was necessary to make the facility available to film companies. PCD has had short-term leases with film production companies at PNM main.

Laws 2002, Chapter 110, Section 24 (6) appropriated \$75,000 from severance tax bond proceeds to renovate the old north main prison buildings within a ten-acre perimeter at the Penitentiary. The project scope is being discussed, to include providing additional electrical capacity to the site for film production use.

ALTERNATIVES

EDD notes the New Mexico Film Office would be open to discussing the possibility of sharing the “old main” facility with the Santa Fe Fire Department, with the understanding that the film office’s booking of a film would lead to positive economic impact and thus take priority. Should activities of the Santa Fe Fire Department not impact the ability to book the “old main” facility or for a film company to function as necessary, the film office would cooperate fully with the access and activities of the Santa Fe Fire Department.

DOC states that Santa Fe County could utilize other real property that it already owns in the area or that it could acquire. This would allow the Corrections Department/PNM to determine what should be done with the old main.

AMENDMENTS

DOC requests addition of a provision that reads:

“Execution of the lease is subject to approval by the Corrections Department.”

GGG/yr/njw