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HOUSE BILL 968

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO PUBLIC PROPERTY; REQUIRING STATE AGENCIES, LOCAL PUBLIC BODIES AND SCHOOL DISTRICTS TO BE GIVEN A RIGHT OF FIRST REFUSAL BEFORE THE SALE, TRADE OR LEASE OF CERTAIN PUBLIC PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-6-2 NMSA 1978 (being Laws 1979, Chapter 195, Section 3, as amended) is amended to read:

"13-6-2. SALE OF PROPERTY BY STATE AGENCIES OR LOCAL PUBLIC BODIES--AUTHORITY TO SELL OR DISPOSE OF PROPERTY-- APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

A. Providing a written determination has been made, a state agency, local public body, school district or state educational institution may sell or otherwise dispose of real or tangible personal property belonging to the state agency,

1 local public body, school district or state educational
2 institution.

3 B. A state agency, local public body, school
4 district or state educational institution may sell or otherwise
5 dispose of real property:

6 (1) by negotiated sale or donation to an
7 Indian nation, tribe or pueblo located wholly or partially in
8 New Mexico, or to a governmental unit of an Indian nation,
9 tribe or pueblo in New Mexico, that is authorized to purchase
10 land and control activities on its land by an act of congress
11 or to purchase land on behalf of the Indian nation, tribe or
12 pueblo;

13 (2) by negotiated sale or donation to other
14 state agencies, local public bodies, school districts or state
15 educational institutions;

16 (3) through the central purchasing office of
17 the state agency, local public body, school district or state
18 educational institution by means of competitive sealed bid,
19 public auction or negotiated sale to a private person or to an
20 Indian nation, tribe or pueblo in New Mexico; or

21 (4) if a state agency, through the federal
22 property assistance bureau of the general services department.

23 C. A state agency shall give the federal property
24 assistance bureau of the general services department the right
25 of first refusal to dispose of tangible personal property of

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1 the state agency. A school district may give the department
2 the right of first refusal to dispose of tangible personal
3 property of the school district.

4 D. Except as provided in Section 13-6-2.1 NMSA 1978
5 requiring state board of finance approval for certain
6 transactions, sale or disposition of real or tangible personal
7 property having a current resale value of more than five
8 thousand dollars (\$5,000) may be made by a state agency, local
9 public body, school district or state educational institution
10 if the sale or disposition has been approved by the state
11 budget division of the department of finance and administration
12 for state agencies, the local government division of the
13 department of finance and administration for local public
14 bodies, the public education department for school districts
15 and the [~~commission on~~] higher education department for state
16 educational institutions.

17 E. Prior approval of the appropriate approval
18 authority is not required if the tangible personal property is
19 to be used as a trade-in or exchange pursuant to the provisions
20 of the Procurement Code.

21 F. The appropriate approval authority [~~may~~]
22 described in Subsection D of this section shall condition the
23 approval of the sale or other disposition of real or tangible
24 personal property upon the property being offered for sale at
25 appraised value or donation to a state agency, local public

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1 body, school district or state educational institution.

2 G. The appropriate approval authority may credit a
3 payment received from the sale of such real or tangible
4 personal property to the governmental body making the sale.
5 The state agency, local public body, school district or state
6 educational institution may convey all or any interest in the
7 real or tangible personal property without warranty.

8 H. This section [~~shall~~] does not apply to:

- 9 (1) computer software of a state agency;
10 (2) those institutions specifically enumerated
11 in Article 12, Section 11 of the constitution of New Mexico;
12 (3) the New Mexico state police division of
13 the department of public safety;
14 (4) the state land office or the department of
15 transportation;
16 (5) property acquired by a museum through
17 abandonment procedures pursuant to the Abandoned Cultural
18 Properties Act;
19 (6) leases of county hospitals with any person
20 pursuant to the Hospital Funding Act;
21 (7) property acquired by the economic
22 development department pursuant to the Statewide Economic
23 Development Finance Act; and
24 (8) the state parks division of the energy,
25 minerals and natural resources department."

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1 Section 2. Section 13-6-2.1 NMSA 1978 (being Laws 1989,
2 Chapter 380, Section 1, as amended by Laws 2003, Chapter 142,
3 Section 3 and by Laws 2003, Chapter 349, Section 22) is amended
4 to read:

5 "13-6-2.1. SALES, TRADES OR LEASES--BOARD OF FINANCE
6 APPROVAL.--

7 A. Except as provided in Section 13-6-3 NMSA 1978,
8 for state agencies, any sale, trade or lease for a period of
9 more than five years of real property belonging to a state
10 agency, local public body or school district or any sale, trade
11 or lease of such real property for a consideration of more than
12 twenty-five thousand dollars (\$25,000) shall not be valid
13 unless it is approved prior to its effective date by the state
14 board of finance. The state board of finance shall condition
15 its approval on the real property first being offered for sale,
16 trade or lease at appraised value to state agencies, local
17 public bodies and school districts.

18 B. The provisions of this section shall not be
19 applicable as to those institutions specifically enumerated in
20 Article 12, Section 11 of the constitution of New Mexico, the
21 state land office, the state transportation commission or the
22 economic development department when disposing of property
23 acquired pursuant to the Statewide Economic Development Finance
24 Act."

25 Section 3. Section 13-6-3 NMSA 1978 (being Laws 1961,
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1 Chapter 41, Section 1, as amended by Laws 2003, Chapter 142,
2 Section 4 and by Laws 2003, Chapter 349, Section 23) is amended
3 to read:

4 "13-6-3. SALE, TRADE OR LEASE OF REAL PROPERTY BY STATE
5 AGENCIES--APPROVAL OF LEGISLATURE--EXCEPTIONS.--

6 A. ~~[Any]~~ Subject to the right of first refusal
7 required in Subsection B of this section, a sale, trade or
8 lease for a period exceeding twenty-five years in duration of
9 real property belonging to ~~[any]~~ a state agency, which sale,
10 trade or lease ~~[shall be]~~ is for ~~[a]~~ consideration of one
11 hundred thousand dollars (\$100,000) or more, shall be subject
12 to ~~[the]~~ ratification and approval ~~[of]~~ by the ~~[state]~~
13 legislature prior to the sale, trade or lease becoming
14 effective. The provision ~~[specified in]~~ of Section 13-6-2 NMSA
15 1978 requiring prior approval ~~[of]~~ by the state budget division
16 of the department of finance and administration ~~[as a~~
17 ~~prerequisite to consummating such]~~ of sales or dispositions of
18 realty shall not be applicable in instances ~~[wherein]~~ where the
19 consideration for the sale, trade or lease ~~[shall be for a~~
20 ~~consideration of]~~ is one hundred thousand dollars (\$100,000) or
21 more and ~~[wherein]~~ where a state agency not specifically
22 excepted by Subsection ~~[B]~~ C of this section is a contracting
23 party, and, in ~~[every such instance]~~ those instances, the
24 legislature shall specify its approval prior to the sale, trade
25 or lease becoming effective.

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1 B. Prior to submitting a sale, trade or lease of
2 twenty-five years or more in duration of real property for
3 ratification and approval by the legislature pursuant to
4 Subsection A of this section, a state agency desiring the
5 transaction shall offer other state agencies a right of first
6 refusal to purchase, trade for or lease the real property at,
7 or based upon, its appraised value. The offer shall be made by
8 publishing the offer and information about the real property
9 and its location, its legal description and its appraised value
10 twice a month for two months in the New Mexico register. A
11 state agency desiring to accept the offer shall comply with
12 applicable real property purchase, trade or lease requirements
13 of the property control division of the general services
14 department before accepting the offer. The offering state
15 agency shall sell, trade or lease the real property to the
16 first state agency that accepts the offer, subject to
17 ratification and approval by the legislature. If no state
18 agency accepts the offer within thirty days of the last
19 publication date of the offer, the offering agency may proceed
20 with its original sale, trade or lease plans and shall seek
21 legislative ratification and approval.

22 ~~[B.]~~ C. The provisions of this section shall not be
23 applicable as to those institutions specifically enumerated in
24 Article 12, Section 11 of the constitution of New Mexico, the
25 state land office, the state transportation commission or the

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1 economic development department when disposing of property
2 acquired pursuant to the Statewide Economic Development Finance
3 Act."

4 Section 4. Section 13-6-5 NMSA 1978 (being Laws 2005,
5 Chapter 251, Section 1) is amended to read:

6 "13-6-5. SALE OF REAL PROPERTY BY STATE AGENCIES--LAND
7 GRANT RIGHT OF FIRST REFUSAL.--

8 A. Notwithstanding the provisions of Section
9 13-6-2, 13-6-2.1, 13-6-3 or 67-3-8.2 NMSA 1978, a state agency
10 shall give the board of trustees of a community land grant
11 governed pursuant to the provisions of Chapter 49, Article 1
12 NMSA 1978 or by statutes specific to the named land grant the
13 right of first refusal when selling real property belonging to
14 the state agency if the property is land that is located within
15 the boundaries of that community land grant as shown in the
16 United States patent to the grant.

17 B. If the board of trustees of the community land
18 grant elects not to purchase the land offered for sale or does
19 not respond to the notice of sale within forty-five days of
20 receipt of the notice, the state agency may otherwise dispose
21 of the property in accordance with applicable law.

22 C. The provisions of this section do not apply to
23 lands held in trust pursuant to the Enabling Act and for which
24 that act prescribes how that land may be disposed of.

25 D. The provisions of this section do not apply to

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1 the conveyance or transfer of state highways to local
2 government entities."

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