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FISCAL IMPACT REPORT

SPONSOR Taylor ORIGINAL DATE 02/23/11
LAST UPDATED _____ HB 385
SHORT TITLE No State Contracts with Certain Companies SB _____
ANALYST Archuleta

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	*Minimal	*Minimal	*Minimal			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorney's (AODA)
Attorney General's Office (AGO)
General Services Department (GSD)
New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 385 prohibits state agencies and local public bodies from seeking to enter or entering into contracts with any individual or entity who has been convicted (in the past ten years) of, administratively or civilly found to be in violation of any law that regulates the relationship between that individual or entity and the government. Laws regulating the relationship between the government and individual or entity are defined to include several ethics laws (such as the Election Code, Campaign Reporting Act, Lobbyist Regulation Act, Governmental Conduct Act, Financial Disclosure Act, the Gift Act, the Procurement Code, etc.) and several crimes (such as fraud, forgery, bribery, perjury, tampering with public records, etc.). This bill also extends this prohibition to contracts entered into which are exempt from the Procurement Code.

As part of the procurement process, state agencies and local public bodies must specifically request information from the individual, entity or key employee regarding any violations of any of the covered laws. The request and the received response must be maintained as a public record in the procurement file, and shall be designated as compliance. An individual or entity that knowingly provides false information in response is subject to a \$5,000 or less civil fine for each violation. An individual who knowingly provides false information is also guilty of a misdemeanor.

FISCAL IMPLICATIONS

AODA indicates there would need to be funding for specialized training for prosecutors about civil law and the Rules of Civil Procedure. This bill also creates another crime which requires an increase in resources within the criminal justice system. Since there would probably be few cases, and the training for prosecutors should be reasonable, the fiscal impact would be minimal.

GSD also indicates minimal fiscal impact related to validation/verification of data is not required by procurement personnel. There would be a very significant impact in costs and procurement schedule time if validation/verification of data is required.

SIGNIFICANT ISSUES

AODA suggests placing a civil matter with the district attorneys offices presents significant problems. Those offices do not have attorneys who are trained in the civil law. Training would need to be provided. Also, when a prosecutor is facing a decision about prosecuting a domestic violence or DWI case over a violation of this bill, the first two will receive priority.

The AGO notes the law is prospective only and does not require the cancellation of current contracts.

GSD indicates information is self-provided and there is a wide range of potential persons that may have the convictions making contractors unsure of their status when hiring employees covered by the legislation.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Government can continue to contract with contractors who violated the public trust by violating public corruption statutes.

DA/mew