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FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/11

SPONSOR HBIC LAST UPDATED _____ HB 403/HBICS

SHORT TITLE Navajo Nation Capital Project Conditions SB _____

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

House Bill 403 amends Section 6-28-2 NMSA 1978 to add language that limits the state's recognition to only those chapters of the Navajo Nation that have been certified pursuant to the Navajo Nation Local Governance Act (LGA) as having the capability and capacity to apply for and implement capital improvement projects.

FISCAL IMPLICATIONS

No significant appropriation impact.

SIGNIFICANT ISSUES

Under Navajo Nation law non-LGA chapters do not have explicit authority to implement capital improvement projects. The only entities under Navajo Nation law that have explicit authority to do procurement for public facilities are Design and Engineering Services and LGA-certified chapters, that have their own procurement policies.

The substitute bill strikes language that recognized as local tribal entities certain nonprofits that may apply for and implement capital improvement projects. The recognition of nonprofit entities as local sub governing tribal entities may have violated Article IX, Sec. 14 of the New Mexico Constitution (the anti-donation clause). If so, then this may have precluded the NM Department of Finance and Administration from recognizing nonprofits as fiscal agents on behalf of tribal entities.

The substitute also strikes language that the state may contract through a fiscal agent other than the Navajo Nation for the expenditure of state funds on behalf of local tribal entities of the Navajo Nation. At the present time, local county governments may serve as fiscal agent for Navajo Nation capital outlay projects.

The bill further strikes language providing for an administrative fee of no more than five percent of a project's cost, unless otherwise negotiated.

PERFORMANCE IMPLICATIONS

The purpose of the LGA is to allow chapters to make decisions over local matters.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Government entities will continue to be able to serve as fiscal agent for the Navajo Nation for capital improvement projects.

AHO/bym:svb