

2. It repeals the current statutes relating to the State Fair and the State Fair Commission, Sections 16-6-1 through 16-6-22 NMSA 1978, and replaces them with the New Mexico State Fair Act. The bill creates a new Office of the State Fair as a state agency administratively attached to Tourism Department. The bill creates a director position, to be appointed by the governor with the advice and consent of the Senate. The director would be responsible for the administration and operation of the office, the annual fair event, and other events at the fairgrounds and the hiring of employees. The bill gives the agency broad powers to operate the state fair and maintain the fairgrounds, including the power to promulgate rules. The bill also requires the Office of the State Fair to work closely with the Economic Development Department, the Tourism Department, the Cultural Affairs Department, the city of Albuquerque, Bernalillo County, and businesses and neighborhood associations in the area. The agency shall provide quarterly reports to the Fairgrounds Commission, the Department of Finance and Administration, and the Legislative Finance Committee and provide an annual report for the governor and the Legislature.
3. It eliminates the current State Fair Commission, replacing it with the Fairgrounds Commission of similar member makeup. The only power designated for the commission is to set policy for the office and the conduct of the annual fair event. The bill requires the Fairgrounds Commission to meet at least quarterly and to provide an opportunity for public comment at its meetings.
4. It creates the non-reverting state fair enterprise fund, consisting of appropriations, enterprise revenues, and other monies credited to the fund. Money in the fund is subject to appropriation by the Legislature. In addition to other appropriations, \$5,000 is appropriated annually to the fund if the city of Albuquerque contributes the same amount to the fund.
5. It provides that all obligations of the current State Fair under outstanding bonds shall continue to be obligations of the new Office of the State Fair, payable from fees, rentals, and other charges of the office and that the New Mexico State Fair Act should not be construed as impairing or authorizing the impairment of the contract between the state and holders of state fair bonds authorized or issued. The bill further provides that all functions, appropriations, money, records, furniture, equipment, and other personal and real property of the State Fair Commission or the State Fair transfer to the Office of the State Fair on July 1, 2014. Similarly, all existing contractual obligations of the State Fair Commission or the State Fair would be binding on the Office of the State Fair.

The bill's effective date is July 1, 2014

FISCAL IMPLICATIONS

The appropriation of \$2.2 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2015 shall revert to the general fund.

The bill states, "that in no case shall any fee be charged for exhibits of agricultural, dairy, horticultural, culinary, apiary, and handwork products of the state of New Mexico, unless items

on exhibit are for sale, which fees and charges shall be uniform to all those similarly situated.” The State Fair reports it currently charges an entry fee on many of these items. If this is disallowed in the future and the agency still gives out prizes similar to those provided currently, this would negatively impact the State Fair’s financial position by approximately \$150 thousand annually.

SIGNIFICANT ISSUES

The AGO provides the following legal issues in its analysis.

By repealing Sections 16-6-1 through 16-6-22, the bill would abolish the current State Fair Commission effective July 1, 2014. The governor would need to appoint members to the newly created Fairgrounds Commission, with prompt action necessitated by the fact that the 2014 state fair is scheduled for September.

The bill provides that the Fairgrounds Commission would set policy for the Office of the State Fair and the conduct of the annual state fair event, and that the director would be under the commission’s policy direction. However, it is not clear from the bill how the commission would effectively enforce its policymaking authority. Under the bill, rulemaking authority is vested in the Office of the State Fair, not the Fairgrounds Commission. The director is to be appointed by the governor with the advice and consent of the Senate, and no other mechanism is provided for the new commission to ensure the director and the agency comply with or follow its policy direction.

CONFLICT, RELATIONSHIP

SB 2 amends the powers and responsibilities of the current State Fair Commission, which would be eliminated by this bill.

TECHNICAL ISSUES

The State Fair provides the following technical issues in its analysis.

New Mexico laws, statutes, and administrative code including but not limited to the Procurement Code refer back to the current statutes for the State Fair Commission for exceptions that are vital to the effective and efficient operation of the New Mexico State Fair.

Funds should be appropriated, in addition to being non-reverting, when deposited into the state fair enterprise fund, otherwise the funds will be subject to the “5 percent rule” which would limit the State Fair’s ability to take advantage of additional business opportunities that might arise in any given year. Use of the additional funds would still be subject to the budget adjustment request process.

JC/ds:jl