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FISCAL IMPACT REPORT

SPONSOR Padilla ORIGINAL DATE 1/31/17
LAST UPDATED _____ HB _____
SHORT TITLE NM Infrastructure Investment Act SB 143
ANALYST Romero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Municipal League

Attorney General's Office

Economic Development Department

SUMMARY

Synopsis of Bill

Senate Bill 143 creates the New Mexico Infrastructure Investment Act, authorizing state agencies and local governments to enter into public-private-partnerships for the development of projects. The bill outlines numerous regulations regarding a public-private partnership and ensures the procurement code applies to any partnership project. It requires the General Services Department to review such partnerships, sets out guidelines for recordkeeping and authorizes a partnership to use any lawful method of funding to be used including: grants, bonds, federal, state and local revenues.

FISCAL IMPLICATIONS

None noted

SIGNIFICANT ISSUES

Public projects include: 1) buildings (other than public housing) that meet a public purpose;

- 2) utility, telecommunications, broadband, energy and other communications infrastructure;
- 3) conservation of natural resources;
- 4) improvements to any un-improved state-owned or locally-owned real estate

These partnerships include the use of public resources or financing capabilities to promote local economic development. Generally, public resources are required to make the project feasible. In these P3 agreements, the public entity will provide some combination of tax incentives, public land or other assets, infrastructure investments or financing assistance. Typically, the private entity will contribute capital investments, commit to provide jobs, contribute development expertise and assume most of the financial risk for the ultimate project outcomes. These “partnerships” can either have short life spans covering only the construction period for the project, or longer life spans covering debt repayment or long-term operating agreements.

SB 143 will expand the use of public/private partnerships in the construction and maintenance of certain infrastructure projects and provides that the General Services Department may assist local governments and the private partner to comply with the provisions of the New Mexico Infrastructure Investment Act.

This Bill will exempt the executive summary, and other documents of the request for proposals, from inspection, under the Inspection of Public Records Act. The language of SB 143 would not only allow for the executive summary to be withheld but also provides that the documents are prohibited from disclosure, absent a judicial order. The proposal, except the executive summary, would then be subject to inspection after the award is issued and any challenge to the award is resolved.

SB143 defines delivery methods such as development agreements and it outlines restrictions, evaluation criteria, penalties, as well as outlining powers and duties of several agencies, including the New Mexico Economic Development Department (NMEDD).

The vetting of private entities is significant and assures each entity possesses the financial capacity to carry out and sustain the project. NMEDD expects the public projects be highly analyzed and vetted to assure a significant beneficial economic impact to the community. The bill addresses issues of importance to economic development and includes upholding the fairness of clauses identified in the NM Infrastructure Act.

ADMINISTRATIVE IMPLICATIONS

This bill proposes that the NMEDD may be responsible for working with other entities deemed necessary to develop a minimum set of guidelines to implement the provision of the New Mexico Infrastructure Investment Act.

ALTERNATIVES

The Office of the Attorney General notes this alternative: Enact a subsection of the Procurement Code instead of a whole new section of law.

IR/jle