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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/09

SPONSOR Ingle LAST UPDATED _____ HB _____

SHORT TITLE Capitol Buildings Planning Commission Duties SB 220

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI	N/A	(See Fiscal Implications Narrative)

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department, Property Control Division (PCD)
Office of the State Treasurer

SUMMARY

Synopsis of Bill

Senate Bill 220 amends Section 15-1-1 NMSA 1978 of the Capitol Buildings Planning Commission Act to increase the duties of the Capitol Buildings Planning Commission (CBPC) as follows:

- To allow designees for the General Services Secretary and for the State Treasurer to serve on the CBPC;
- Allows the Commission to review proposed lease-purchase agreements;
- To work with the General Services Department (GSD) and other agencies to address deferred maintenance issues at state agencies to keep facilities functional; and
- To utilize life-cycle costing to determine whether the state should lease, lease-purchase, or purchase facilities.

Senate Bill 220 further requires that any proposed lease-purchase agreement be reviewed by the Commission prior to submittal to the Legislature for ratification and approval. The bill establishes the following criteria for review of lease-purchase agreements by CBPC:

- Agencies shall notify the Commission if an anticipated lease-purchase agreement by a state agency exceeds \$5 million during the term of the agreement or if the commission selects the proposal for review based upon criteria adopted by the commission.
- The review by the commission shall include findings by the commission as to whether:
 - The property and term of the agreement will meet the needs of the occupying agency;
 - That lease payments will be sufficient to acquire ownership of the property;
 - That the lease-purchase agreement does not obligate the state or agency to continue the lease from year to year, to purchase the property, and that the agreement includes a termination clause if sufficient appropriations are not available to meet the current lease payments; and
 - That the lease-purchase agreement is the most cost-effective means of acquiring property.
- Following review of the lease-purchase agreement, the commission shall submit its findings and recommendations to the Legislature.

The effective date of the provisions of this bill is July 1, 2009.

FISCAL IMPLICATIONS

According to Property Control Division, lease-purchase financing will convert agency annual lease payments from an expense to an investment in real property. At the end of the lease-purchase agreement, an agency lease budget will be reduced to zero, and the agency will be responsible for operations and maintenance expenses.

Lease purchasing could potentially be accomplished through the New Mexico Finance Authority, which received legislative authorization in 2001 to own buildings for lease/lease/purchase to state agencies and that the state is receiving the best value under the proposed agreements. The lease/purchase approach will provide greater opportunity for the state to maximize federal cost recovery for financing facilities than it currently recovers through regular leases. Certain allowable costs include depreciation on construction and improvement costs over the expected life of the building or its components; certain interest payments associated with building costs, financing costs associated with building costs and actual management, operating and maintenance costs.

SIGNIFICANT ISSUES

Senate Bill 220 provides criteria that are basic to the evaluation of any lease-purchase agreement and assures the lease-purchase agreement is the most cost-effective means of an agency acquiring needed property. The proposed changes in the bill do not impact the executive's authority to manage facilities. However, a positive recommendation by the commission will add support to any lease-purchase proposal contemplated by a state agency, and avoids agencies bringing unplanned and financially unfeasible lease-purchase projects to the Legislature without review.

The review criteria established in this bill are basic to the evaluation of any lease-purchase agreement. Discussions in the interim indicate PCD is considering promulgating rules to expand and clarify the financial, programmatic, and operational requirements for agencies to enter into such agreements.

LMK/mt