

LFC Requester:	Anna Hanika-Ortiz
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**AGENCY BILL ANALYSIS
2014 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date January 15, 2014
Bill No: HB 100-305

Sponsor: Rep. Larry A. Larrañaga
Short Procurement of Some
Title: Professional Services

Reviewing Attorney General's Office
Person Writing Jennifer Salazar, AAG
Phone: 827-6990 **Email** jsalazar@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None
 Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

HB 100 proposes to amend Section 13-1-98 of the Procurement Code, NMSA 1978, Sections 13-1-28 to -199. Specifically, the proposed language amends the exemption for home rule municipalities found at NMSA 1978, Section 13-1-98(K) to require home rule municipalities to follow the competitive sealed qualification-based proposal requirements outlined in Sections 13-1-120 through -124 of the Procurement Code when contracting with architects, engineers, landscape architects, and surveyors for public works projects.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

None for the AGO.

SIGNIFICANT LEGAL ISSUES

This statutory change would preempt any municipal enactment contrary to this amendment. The change would also require home rule municipalities that do not currently follow the procurement

process enumerated under Sections 13-1-120 through 13-1-124 to change their practices. See N.M. CONST. art. X, § 6 (“A municipality which adopts a charter may exercise all legislative powers and perform all functions not expressly denied by general law or charter.”); see also New Mexicans for Free Enter. v. The City of Santa Fe, 2006-NMCA-007, ¶ 14, 138 N.M. 785, 126 P.3d 1149 (explaining that home rule municipalities have broad “authority to act as long as the legislature has not expressly denied that authority.”).

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

None for the AGO.

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

None for the AGO.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

None.

TECHNICAL ISSUES OR DRAFTING ERROR

None.

OTHER SUBSTANTIVE LEGAL ISSUES

None.

ALTERNATIVES TO ENACTING THIS BILL

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS NEEDED TO IMPROVE THIS BILL

None.