

| | |
|-----------------------|---------------------------|
| LFC Requester: | Hanika-Ortiz, Anne |
|-----------------------|---------------------------|

**AGENCY BILL ANALYSIS
2015 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 | <input checked="" type="checkbox"/> | Amendment | <input type="checkbox"/> | Date | <u>February 7, 2015</u> |
| Correction | <input type="checkbox"/> | Substitute | <input type="checkbox"/> | Bill No: | <u>SB 490</u> |

| | | | |
|-----------------|--------------------------------|-----------------------|--|
| Sponsor: | <u>Senator Mimi Stewart</u> | Agency Code: | <u>Attorney General's Office</u> |
| Short | <u>Procurement Code Gender</u> | Person Writing | <u>Mona Valicenti, AAG</u> |
| Title: | <u>Equity</u> | Phone: | <u>505-827-694</u> Email <u>mvalicenti@nmag.gov</u> |

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:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

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

BILL SUMMARY

Synopsis:

Senate Bill 490 amends NMSA 1978, section 13-1-21 (Chapter 72, Section 1) by adding a new definition for “gender equity of wages and salaries” and a new section providing that a public body making a purchase using a formal request for proposal, i.e. a competitive sealed proposal process, shall award additional points, equivalent to five percent of the total possible points, to a business that demonstrates gender equity in its payment of wages and salaries to its employees.

FISCAL IMPLICATIONS N/A

SIGNIFICANT ISSUES

SB 490 amends the procurement code’s application process to provide additional points equivalent to five percent of the total possible points for a business that can demonstrate gender equity in the wages and salaries it pays its employees. Requiring submission of data that “includes information sufficient to determine” if the wages and salaries are equitable in terms of gender is too vague and may be burdensome to the bidder. To be actionable under the Fair Pay for Women Act (FPWA), NMSA 1978, Sections 28-23-1 *et seq.*, an employee must show that an employer with four or more employees pays employees of one sex less than employees of the opposite sex for equal work on jobs requiring performance of equal skill, effort, and responsibility for jobs performed under similar working conditions.

PERFORMANCE IMPLICATIONS N/A

ADMINISTRATIVE IMPLICATIONS N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP N/A

TECHNICAL ISSUES Executive Order 2009-049 directed that the State of New Mexico by January 1, 2011 implement such an incentive point system to be used in the scoring of requests for proposals and other bidding processes “to overcome gender pay gaps not due to job-related factors.”

OTHER SUBSTANTIVE ISSUES N/A

ALTERNATIVES N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The General Services Department has been requiring bidders to submit forms in conformity with the Executive Order. Bidders who are compliant with gender pay equity will not get the additional points in the scoring of their RFPs.

Status quo

AMENDMENTS N/A