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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/09

SPONSOR Lujan, A. LAST UPDATED _____ HB 62/aHLC

SHORT TITLE Farm & Ranch Employee Workers' Comp SB _____

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$92.5	\$196.1	Recurring	Workers' Compensation Administration Fund
	\$6.9	\$14.7	Recurring	Uninsured Employers' Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY09	FY10	FY11	Recurring or Non-Rec	Fund Affected
	\$105.0	\$210.0		
	\$12.0	\$24.0	Recurring	Uninsured Employers' Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Agriculture

Workers' Compensation Administration (WCA)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HLC Amendment

The House Labor and Human Resources Committee amendment adds an effective date for the provisions in this act of July 1, 2010.

Synopsis of Original Bill

House Bill 62 removes the exemption of mandatory workers' compensation coverage for farm and ranch workers when three or more non-family members are employed.. The proposed legislation provides an elective to exclude family member employees, and clarifies determination of the number of employees of a family farming business. The proposed legislation also defines family farming business, family member employee, and related within the third degree by blood or marriage.

FISCAL IMPLICATIONS

The revenue estimates were provided by the TRD based on the following:

According to the 2002 Census of Agriculture, New Mexico has approximately 14,500 farm and ranch laborers who work fewer than 150 days per year, and who are thus assumed to contribute to the relevant Workers' Compensation Act funds only one quarter per year. An additional 8,600 laborers work more than 150 days per year, and are assumed to contribute to the WCA funds all four quarters of each year.

The WCA believes that based on their experience in the past the TRD revenue estimates do not include timing problems and non compliance issues and are therefore too high. WCA feels that TRD overestimated the revenues by \$66,000 in FY10 for the workers' compensation administration fund and by \$4,700 for the uninsured employers' fund. WCA further states that the numbers TRD uses for the workforce are suspect because WCA believes the census numbers are over-counted.

WCA estimates it will need three additional FTEs to handle the work load generated by the additional coverage of the farm and ranch workers. They estimate that they will need \$50,000 per worker with benefits or \$150,000. They will also need funding to cover administrative overhead such as rent, light computers.

The Uninsured Employers' Fund is administered by a TPA. WCA estimates they will need to pay an additional \$24,000 a year to the contractor.

SIGNIFICANT ISSUES

WCA noted the proposed legislation provides coverage for a population of workers who are not currently covered under the Workers' Compensation Act. An estimated 9,700 farm and ranch workers would be affected in addition to an estimated 1,750 employers across the state. Currently, only farm and ranch laborers are exempt from coverage. Farm and ranch employers who have three or more non-farm labor workers are required to have coverage.

As New Mexico has no claim history for this population, the WCA relied on the State of Idaho's experience due to the various demographic similarities. Based on Idaho's history, the WCA expects an additional 475 claims per year from the newly added Farm and Ranch Laborers. WCA accident year data lists the average cost per claim to be approximately \$16,876. Including private sector administrative costs, the WCA projects the annual cost to farm and ranch employers to be an additional \$10.5 million annually. Due to annual variation in production costs and prices, the WCA calculates the average net farm income for the past five years (2003-2007) as \$700.2 million. The additional \$10.5 million represents a loss cost increase of approximately 1.5 percent.

The National Council on Compensation Insurance, Inc. (NCCI) also examined this amendment. The industry group estimated the proposal would increase New Mexico payroll costs by 0.4 percent and increase premiums up to 1.1 percent.

N.M. Department of Agriculture stated the proposed legislation would introduce a significant financial stain on the farming and ranching part of the industry. The proposed legislation could place an additional financial strain on small scale farmers during the current economic crisis. Growing concern over where food is produced and losing the local farming base places more emphasis on imported food which is a disadvantage to New Mexico producers.

According to New Mexico State University agricultural economists, the estimated cost of the proposed legislation would exceed \$14.6 million to the primary crops produced in New Mexico, \$11.5 million to the beef and cattle industry, and over \$59.5 million to the dairy industry. The 2002 census of agriculture lists the average net income per farm in New Mexico at \$19,373.

N.M. Department of Agriculture noted the distinction between full-time farm and ranch employees and seasonal, part-time and migrant workers is not clear in the proposed legislation. The department stated the nature of agriculture makes it extremely difficult to track some workers who work on different farms every day and even go to different states depending on the seasonal crop.

RELATIONSHIP

House Bill 62 is identical with Senate Bill 9 with the exception of definition (4) on page 7 using the word “related” within the third degree by blood or marriage, whereas Senate Bill 9 uses the word “within” the third degree by blood or marriage.

OTHER SUBSTANTIVE ISSUES

WCA reported that the court of appeals in *Holguin v. Billy the Kid Produce*, 110 N.M. 287, 795 P.2d 92 (N.M. App. 1990) and *Tanner v. Bosque Home Farms, Inc.*, 119 N.M. 760, 895 P.2d 282 (N.M. App. 1995) both define “farm and ranch laborer” to mean those workers who cultivate, harvest or raise animals or crops.

N.M. Department of Agriculture noted there are 14 states that do not require mandatory workers' compensation for agriculture. Only 13 states require full mandatory coverage and the remaining 23 states have 15 different variations and levels of workers' compensation coverage.