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FISCAL IMPACT REPORT

SPONSOR: Feldman DATE TYPED: 03/06/01 HB _____
 SHORT TITLE: Legal Notices SB 381/aSPAC
 ANALYST: Hayes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			Indeterminate		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Various state agencies (21)

SUMMARY

Synopsis of SPAC Amendment

Section 1B of the original bill has been amended by the Public Affairs Committee to clarify requirements for first-time notices being published. With the amendments, the paragraph now reads: *At the time of the first publication of a legal notice or advertisement, a government entity shall send a copy of the notice to each newspaper, magazine, radio station and television station that has submitted a written request to be notified.*

The burden of the agency in trying to identify every newspaper, magazine, radio and television station to whom a notice should be sent has been alleviated, and instead, has been placed with the media.

Synopsis of Original Bill

SB381 amends Section 14-11-2 NMSA 1978 governing the requirements for publication of legal notices and advertisements in broadening the language about frequency of publications and their distribution.

No effective date is stated in the bill.

Significant Issues

1. Currently, publication of legal notices is allowed only in newspapers that are published at least weekly. In essence, SB381 eliminates the requirement that any newspaper of general circulation in which such legal notices are published must be a daily, tri-weekly, semi-weekly, or weekly newspaper. This now allows for publication of legal notices in bi-monthly, monthly or less frequent newspapers.
2. Secondly, the bill adds a new requirement that when a notice is first published, a copy of the notice must be sent to all “local media” in the county where the publication is to occur, not just newspapers but magazines, radio stations and television stations. However, legal notices are typically not the types of advertisements that would be published in magazines or broadcast on radio or television. It appears the intent of this new language is to substitute the longtime, traditional newspaper publication method with using media to provide legal notice.

FISCAL IMPLICATIONS

There is no appropriation associated with this bill. However, many of the twenty-one agencies that responded (unsolicited) to this bill discussed the fiscal implication it would have on their agency and their budgets. For example:

- c The Secretary of State’s Office will be required to undertake substantial mailing of Primary Election Proclamations and Constitutional Amendments to all media outlets pursuant to this legislation, resulting in more mailing costs (\$500).*
- c If the term “magazine” or any of the other media terms used in the statute are defined broadly, then the Public Regulation Commission would incur a huge expense in mailing copies of legal notices.*
- c The bill states that “a copy of a notice shall be sent to each newspaper, magazine, radio station and television station in the county.....” If one were to assume this means it has to be published in each newspaper and magazine and advertised on each radio station and television station, that would dramatically increase costs for the State Engineer’s Office which must publish legal notices at least two (2) or three (3) times per year for each adjudication at a cost ranging from \$500 to over \$2,000 per publication.*
- c Subpart B amendments may have fiscal implications if the New Mexico Environment Department is required to send out additional notices under the proposed legislation. Additional time and money will be needed for the hearing clerk or bureaus to send such additional notices*

TECHNICAL ISSUES

EFFECTIVE DATE needs to be indicated on the bill.

Clarification is needed in Subsection B, new language. Does a copy of the first notice need simply be “sent,” i.e., mailed to each newspaper, magazine, radio station and television station in the county where the notice is required to be published or does it need to be published and broadcast?

OTHER SUBSTANTIVE ISSUES AND QUESTIONS

Senate Bill 381/aSPAC -- Page 3

1. If a state agency fails to send a copy of the legal notice to a newspaper, magazine, radio station and television station in a county pursuant to SB381, is the agency/director guilty of a misdemeanor?
2. Are the violations cumulative? For example, if an agency missed 15 magazines and radio stations, could it be charged with 15 separate counts?
3. There are no definitions in the act for magazine, radio station and television station. Under those circumstances, how could an agency comply with the mandate to send a copy of the notice to all of the required media?
4. Who will generate and maintain a complete list of every newspaper, magazine, radio station and television station in every county in the state? How will this list be disseminated?

CMH/ar