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## FISCAL IMPACT REPORT

SPONSOR: Rawson DATE TYPED: 2/7/03 HB \_\_\_\_\_  
 SHORT TITLE: Hiring Practices for Boards and Commissions SB 265  
 ANALYST: Maloy

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |                | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|----------------|----------------------|---------------|
| FY03                    | FY04 | FY03                        | FY04           |                      |               |
|                         |      |                             | Impact Unknown | Recurring            | OSF           |

### REVENUE

| Estimated Revenue |                | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected |
|-------------------|----------------|-------------------------|----------------------|---------------|
| FY03              | FY04           |                         |                      |               |
|                   | Impact Unknown |                         | Recurring            | OSF           |

Conflicts with SB 187, which proposes to remove the Board of Pharmacy from RLD

Relates to, and conflicts with SB 101, which applies only to boards currently administratively attached to RLD.

Relates to SB 171, which impacts only the Medical Practice Act / Medical Examiners Board.

### SOURCES OF INFORMATION

Responses Received From  
 Regulation and Licensing Department  
 Board of Medical Examiners  
 New Mexico Commission on Higher Education

### SUMMARY

#### Synopsis of Bill

- Senate Bill 265 proposes to amend the practice acts of the professional and occupational licensing boards attached to the Regulation and Licensing Department (RLD), and of

some boards that currently function as independent (from RLD) state entities. The bill seeks to codify a relationship between the boards and RLD.

- For the boards that are currently attached to RLD, the proposed relationship is simply taking the present status of their work within RLD and making it consistent in the law. But, for the boards that currently function completely independent of RLD, the proposed relationship means considerable change to their operations and budget.
- The bill clearly states that the boards are administratively attached to the department, and the boards are to use clerical, record-keeping and administrative support staff hired by RLD to carry out their respective powers and duties.
- SB265 also clarifies that authority over personnel matters such as hiring and firing shall reside with the Superintendent of Regulation and Licensing, and not with the individual boards. Currently, many of the boards' enabling acts still reflect board authority over personnel matters. This statutory authority dates back to the boards' origins as independent state agencies, and does not reflect the current reality that the RLD Superintendent is the hiring authority for all personnel attached to the department. (SB265 deletes from the boards' individual practice acts specific references to the authority of the boards to hire staff independent of RLD.)
- SB265 proposes to administratively attach to RLD certain licensing boards that are currently independent, including the Nursing Board, the Veterinary Board, the Board of Medical Examiners, the Board of Architect Examiners, the Radiologist Board, and the Professional Architects and Engineers Board.

### Significant Issues

- SB 265 proposes bringing back under the RLD umbrella boards that were originally placed under RLD jurisdiction when RLD was established in 1983, but which were later allowed to achieve independent agency status.
- SB 265 is not viewed favorably by the currently independent boards.
- In looking at bringing independent boards under the administrative umbrella of RLD, several issues should be considered. Among those issues are:
  1. Whether or not the independent boards desire to be brought back under RLD after many years functioning as independent state agencies.
  2. The potential for duplication of staff and administrative services when these independent boards, having their own established staffs, are brought under RLD.
  3. Which of the two entities, RLD or the previously independent board, will have control over board revenue? At this time, the independent boards control their revenue and expenditures. Does becoming administratively attached to RLD mean the department will assume budget authority and control?

Those boards presently functioning under the RLD umbrella submit their budgets annually to RLD for approval, and they pay RLD for overhead costs. Some of the larger boards currently underwrite the administrative costs of smaller boards that do not have a licensee base large enough to support their operation. These boards also support 7.5 FTE within RLD, including two financial specialist, a budget analyst, a human resources manager, a boards and commissions manager, and an IS / computer specialist.

4. The issue of whether the independent boards remain in their present offices, or will be brought into the RLD office complex needs to be addressed. RLD is currently in the process of issuing a Request for Proposals (RFP) for new office space effective July 1, 2003, and the RFP does not include the substantial additional square footage requirements of the additional independent boards.
- Another considerable implication is the impact on some of the boards' legal representation. For instance, the Medical Examiners' Board (currently an independent board) will no longer have the authority to hire an attorney. Legal representation would become the responsibility of the Attorney General's Office. At this time, the board's attorney works full time, not only as a prosecutor but also in giving daily guidance regarding complex board investigations.
  - There is no reliable evidence that operating costs would decrease under consolidation. Further, there is the concern the consolidation will impact service delivery. It is unlikely that RLD can effectively and efficiently support the additional independent boards without adding to their staffing levels. There has not been adequate planning to ensure RLD can absorb the additional workloads.
  - With regard to this bill, the following questions should be addressed:

Will the independent boards retain control over their budgets, or will this become a function handled through RLD?

Will the independent boards pay overhead to RLD like those currently attached to RLD? Will their revenues be used to underwrite the costs of smaller boards?

Is it possible that, if SB 276 was enacted, all of the boards, including those that have been continuously attached to RLD, will have full control over and authority to direct the use of their revenues.

## FISCAL IMPLICATIONS

- All of the boards and commissions, whether attached to RLD or independent, currently operate with OSF. The revenue generated from examinations, licenses, renewals, penalties, and the like, goes directly to supporting the boards' individual operations.
- Boards that are currently under RLD's administrative umbrella pay RLD for overhead costs, and support approximately 7.5 FTEs within RLD. These boards submit their an-

nual budgets through RLD.

- Boards that are independent of RLD do not share costs or personnel with RLD and retain full, independent authority over their budgets.

## **TECHNICAL ISSUES**

It is believed that the Medical Radiation Health and Safety Board and the Utilities Operators Board are currently attached to the Department of Environment for oversight purposes. Input from that department may be important.

On page 77-78 of the bill, the Board of Thantopractice language is changed to remove “this board is administratively attached to the department.” However, the new language stating that staff will be hired by the department has not been included.

In Section 16 of the bill, the standardized language regarding staff has been added, but the Respiratory Care Board is an advisory board with all actual statutory authority vested in RLD. It is unlikely that this board believes it has authority to higher or fire.

## **ALTERNATIVES**

- Consider a Memorial to study the issue of consolidation.
- Enact SB101, wherein independent boards are not addressed.

SJM/lis