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FISCAL IMPACT REPORT

SPONSOR: Robinson DATE TYPED: 03/04/03 HB _____
 SHORT TITLE: Definition of "Leased Worker" SB 483/aSJC
 ANALYST: Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 483 strikes language referring to temporary employment services and replaces it with "temporary services employer". The SJC report makes these changes on page 2, line 14 and line 19. However, it appears that the amendments should be on lines 12 and 17.

The SJC amendment also adds a definition for "temporary services employer" as outlined below:

H. "temporary services employer" means an employing unit that contracts with clients or customers to supply workers to perform services for the client or customer and performs all of the following functions:

- (1) negotiates with clients or customer for such matters as time, place, type of work, working conditions, quality and price of the services, but does not control or supervise workers in the performance of an assignment;
- (2) determines assignments of workers, even though workers retain the right to refuse

specific assignments;

- (3) retains the authority to reassign or refuse to reassign or refuse to reassign a worker to other clients or customers when a worker is determined unacceptable by a specific client or customer;
- (4) assigns the worker to perform services for a client or customer;
- (5) sets the rate of pay for the worker, whether or not through negotiation; and
- (6) pays the worker directly.

Synopsis of Original Bill

Senate Bill 483 amends NMSA 1978, § 60-13A-2, by adding language to the definition of “leased worker” to state that a leased worker is one who is employed by a temporary employment service or an employee leasing contractor. This bill also requires employing services or contractors to comply with the Employee Leasing Act.

Significant Issues

This language intends to clarify the ambiguity of the definition, but it may further confuse things since the Act does not define how “employment” is established.

ADMINISTRATIVE IMPLICATIONS

According to the Regulation and Licensing Department (RLD), this bill may make it more difficult to enforce the Employee Leasing Act since entities to which it applies may argue that they do not “employ” the leased worker. Instead, they may assert that the entities to which workers are provided are the actual employers. Employment should be established by the act of paying wages in order to avoid this problem.

RLG/nw:yr