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FISCAL IMPACT REPORT

SPONSOR HJC DATE TYPED 2/13/04 HB 277/HJCS/aSCORC

SHORT TITLE Clarify Sexual Discrimination Provisions SB _____

ANALYST Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to House Judiciary Committee Substitute for House Bill 277 amends §28-1-9 NMSA 1978 (Laws 1969, Chapter 196, Section 8) of the Human Rights Act by adding the following new Section 2:

"[NEW MATERIAL] EXEMPTION--CERTAIN PRACTICES OF CERTAIN EMPLOYERS.--An action, inaction or other practice of an employer **based on a person's sexual orientation or gender identity is not an unlawful discriminatory practice** pursuant to Subsection A of Section 28-1-7 NMSA 1978 **if the employer employs fourteen or fewer full-time employees.**"

Prior to the SCORC amendment, HB 277/HJCS placed sexual orientation and gender identity in the same category with race, religion, color, national origin, ancestry, sex, physical or mental handicap, or serious medical condition. With this amendment, a fourteen employee threshold would apply for illegal discrimination based on a person's sexual orientation or gender identity, and a four employee threshold would apply for all other protected groups.

Synopsis of Original Bill

The House Judiciary Committee Substitute for House Bill 277 amends the Human Rights Act to delete §28-1-9 G, which exempts businesses with fourteen or fewer full-time employees from provisions of the Human Rights Act. Instead, this bill implements a four employees or fewer threshold for all types of discrimination, including sexual orientation or gender identity.

Significant Issues

Currently, employers who have fifteen or more full-time employees may discriminate based on race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap, or serious medical condition.

OTHER SUBSTANTIVE ISSUES

This bill addresses a drafting error in 2003 legislation that intended to make it *legal* for employers with fourteen or fewer employees to discriminate based on *sexual orientation or gender identity*. However, the error resulted in the fifteen or more employee cutoff being applied to all protected groups.

The amendment in this bill sets a four employee or fewer threshold for all types of discrimination, including sexual orientation or gender identity.

Prior to being amended, the 2003 regular session bill retained the four employee threshold or less for all types of discrimination (race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap, or serious medical condition). After the amendment, which was intended to only apply to sexual orientation or gender identity, the law enacted in 2003 exempted all businesses that employ fourteen or fewer full-time employees (§28-1-9 G) from all portions of the Human Rights Act.

RLG/prr:yr:lg