

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Ezzell DATE TYPED 2/24/2005 HB 909

SHORT TITLE Right to Work Act SB \_\_\_\_\_

ANALYST Dunbar

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Labor (DOL)  
 NM Department of Corrections (NMDOT)  
 NM Public Education Department (NMPED)  
 Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

Synopsis: HB 909 enacts the “Right to Work Act” as follows:

Section 2: States that it is the public policy of New Mexico that all persons shall have and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join or assist labor organizations or to refrain from any such activities.

Section 3: Defines “labor organization.”

Section 4: Provides that a person shall not be required, as a condition of employment, to become or remain a member of a labor organization or to pay any dues, fees, assessments or other charges of any kind to a labor organization.

Section 5: Provides that an employer shall not require a person to be recommended or approved by, or to be cleared through, a labor organization as a condition of or continuation of employ-

ment.

Section 6: Prohibits any agreement, understanding or practice between an employer and a labor organization that is in violation of the Act.

Section 7: Provides that an employer shall not deduct from wages, earnings or compensation of an employee any union dues, fees, assessments or other charges to be held for or paid to a labor organization, unless the employee has authorized the deduction in writing.

Section 8: Requires the attorney general (AG) and every district attorney (DA) to investigate complaints of violation of the Act and to prosecute a person suspected of violating the Act.

Section 9: Authorizes the AG or a DA to bring an action in district court for injunctive or other appropriate relief, if an investigation provides good cause to believe that a person is violating or will violate a provision of the Act.

Section 10: Provides that violation of the Act is a misdemeanor, and that a conviction will carry a fine of \$1,000 or less or a sentence of 90 days or less in jail or both.

Section 11: Provides that the provisions of the Act shall not apply to any contract or agreement in force on the effective date of the Act, but shall apply to a renewal or extension of the contract or agreement, or to a new contract or agreement entered into after the effective date of the Act.

Section 12: The Act contains a severability clause.

### Significant Issues

The bill prohibits employers from deducting union dues or fair share fees without the employee's permissions. Enforcement of the act is a duty of either the Attorney general or the District Attorney. Jurisdiction is where the violation took place, or Santa Fe County. Violation of the act is a misdemeanor.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflicts with current Collective Bargaining Act.

### **OTHER SUBSTANTIVE ISSUES**

NMPED notes that the National Labor Relations Act (NLRA) does not cover the state or its political subdivisions. Section 164(b) of the NLRA provides that "Nothing in this subchapter shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law." Approximately 21 states have enacted right-to-work laws.

Public employee collective bargaining in New Mexico is governed by the Public Employee Bargaining Act [10-7E-1 to 10-7E-26 NMSA 1978], which guarantees public employees "the right to organize and bargain collectively with their employers, to promote harmonious and cooperative relationships between public employers and public employees and to protect the public in-

terest by ensuring, at all times, the orderly operation and functioning of the state and its political subdivisions.” The agreements negotiated pursuant to the Public Employee Bargaining Act may contain “fair share” provisions.

**BD/yr:lg**