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FISCAL IMPACT REPORT

SPONSOR McSorley DATE TYPED 02/10/05 HB _____

SHORT TITLE Social Workers License Requirements SB 270

ANALYST McSherry

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
NFI	Indeterminate	Indeterminate	Recurring	Social Workers Practice Board Fund

(Parenthesis () Indicate Revenue Decreases)

SB 270 relates to HB 306 which proposes to extend the life of the Board of Social Workers by setting a new sunset date and HB 310 which proposes to include language specifying the role of the legislature in the appropriation of funds.

SB 270 conflicts with SB 315 which includes many, but not all, of the proposed amendments included in SB 270.

SOURCES OF INFORMATION

LFC Files
 Children Youth and Families Department
 Regulations and Licensing Department
 Department of Health
 Corrections Department

SUMMARY

Synopsis of Bill

Senate Bill 270 proposes to amend the Social Work Practice Act, NMSA § 61-31-31 by changing the requirements and standard for Social Workers, expanding license classification and providing for Board Immunity and confidentiality.

The scope of coverage proposed by the bill would expand the coverage of the Practice Act to all “practice of social work” and adds a new section governing unlawful practice of social work, which includes a misdemeanor sanction for practicing social work without a license.

The bill proposes the removal of the requirement that the written examination include a section on New Mexico cultures and would give the Board the authority to determine the qualifications for licensure, including demonstrating “an awareness and knowledge of New Mexico cultures.” Senate Bill 270 proposes additional provisions for inactive and retired license statuses and proposes to allow a doctoral degree to suffice for licensure. The bill proposes that the Board be able to accept programs “equivalent” to those approved by the council on social work education.

Immunity for civil liability for board members is proposed in the bill, along with limited confidentiality for Board communications when dealing with disciplinary actions.

An administrative fee is proposed to be \$300, in addition to those fees established for testing, licensure, and renewal of licenses.

A new misdemeanor of practicing social work without a license, or on an inactive or expired license, is proposed to be created.

Significant Issues

The changes would expand the educational requirements to allow applicants with a doctoral degree to be eligible for licensure.

It is not clear to what licensure application “reasonable administrative fees” would pertain and to whom the fees would be assessed.

According to Regulations and Licensing (RLD), the proposed changes would:

Allow applicants who have graduated prior to the Council on Social Work Education accrediting programs would be eligible for licensure.

Expand license classifications to include a retired and inactive status allowing licensees not practicing in the state to keep their license and begin practicing again by reactivate their licenses in the State of New Mexico without having to reapply.

Give the board immunity from civil action when an allegation of misconduct is made in good faith which may result is the initiation of disciplinary action against a license holder and allow for written and oral communication made to the board relating to disciplinary action to remain confidential until actual disciplinary action is taken against a licensee.

Protect the public from anyone who practices social work by requiring “anyone” who practices social work to be licensed.

CYFD proposes that executive agency personnel be exempt from the proposed licensing changes for the following reasons:

Existing safeguards within the child protective services system which provide a level of public protection higher than that of licensure.

Regular monitoring of child and family cases by entities outside of CYFD, including: the children’s court judge, the citizen review boards, court appointed special advocates

(CASAs) and the federal Department of Health and Human Services.

Multiple layers of oversight institutionalized within the department management structure along with monitored compliance to national child welfare standards through a quality assurance program as safeguards taken for professionals in the department providing social work services.

Reduction of the pool of qualified applicants for vacant positions. CYFD asserts that positions that require a social work license have been advertised multiple times in several offices and remain vacant due to a lack of applicants. The department cites recent examples: Tucumcari (vacant since 9-15-04), Gallup (vacant since 11-6-04), Albuquerque (vacant since 8-14-04), Raton (vacant since 6-19-04), Carlsbad (vacant since 10-8-04), Hobbs (2 positions, vacant since 9-17-04 and 12-4-04), Los Lunas (4 positions vacant since 7-30-04, 4-24-04, 11-20-04 and 1-15-05), and Roswell (2 positions vacant since 8-20-04 and 9-11-04). The following offices experienced a 28% or higher vacancy rate at some time during 2004: Taos, Socorro, Hobbs, Tucumcari, Raton/Clayton, Truth or Consequences, Gallup, Espanola, and Los Lunas. County Office Managers have identified numerous individuals capable and qualified to perform the work but who cannot be considered because they do not have a social work license. The department cited vacancy rate, as of December 30, 2004, including Bernalillo County (Albuquerque) was 14.9%, and the statewide social worker vacancy rate excluding Bernalillo County (Albuquerque) was 16.1%.

The New Mexico Corrections Department cites that the proposed changes would affect the department in two ways:

The creation of the new crime, practicing social work without a license, as a misdemeanor resulting in most people sentenced being placed on probation. The greatest impact to the Department would be the Probation Division.

The changes in requirements for licensure might make it easier to find qualified social workers. This might be offset by the additional costs associated with licensing.

PERFORMANCE IMPLICATIONS

The Department of Health reports that the proposed changes may have an effect on Medicaid, in that there may be a slight increase in LBSW, LMSW and LISW providers as a result of the proposed changes.

CYFD asserts that the inability of the department to hire appropriately qualified but unlicensed employees, who can be trained and supervised, could negatively impact the department's ability to fill vacancies and achieve performance measures for protective services relating to the protection of children.

FISCAL IMPLICATIONS

The Department of Health reports that SB270 will not have a fiscal impact on the Department.

Section 61-31-15N, provides that the Board can assess an administrative fee up to \$300, in addition to existing fees for testing, licensure, and renewal of licenses. According to CYFD, licen-

sure for protective service employees costs approximately \$32 thousand annually with existing fees.

CYFD asserts that enacting the bill without the exemption of child protective services staff may have an adverse effect on future federal funding. The agency further asserts that since enactment of ASFA in 1997, funding for foster children and other federal child protective services is contingent upon state compliance with stringent national standards and that staff vacancies are an obstacle to meeting the standards. CYFD reports that the state will undergo its next intensive federal review in 2006 and that the current level of federal funding for foster care and child protection is approximately \$52 million annually.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 315 conflicts with and greatly duplicates Senate Bill 270.

HB 306 proposes to extend the life of the Social Work Board.

HB 310 introduces language specifying the role of the Legislature in appropriation of Board funds.

TECHNICAL ISSUES

HB315 does not have the following amendments which are included in SB 270:

1. Allowing the Board under limited circumstances to approve program for applicants who received their degree prior to the council on social work education's existence.

2. Requiring anyone who engages in the practice of social work to be licensed. Changes the requirement under unlawful practice of a clinical social worker to an Independent social worker. Which makes it consistent with the licensure classifications.

3. Allowing the Board to charge for "reasonable" administrative fees.

OTHER SUBSTANTIVE ISSUES

CYFD reports that exempting State agency employees from social work licensure is a common practice and points to: Rhode Island, Ohio, Missouri, Louisiana, and Hawaii; the Department also cites Section 61-9-16(A)(1) which exempts state employees from the Professional Psychologist Act in New Mexico.

The Corrections Department reports that in the short term and the long term, the bill will somewhat increase the administrative prison staff and probation staff because of the increasing prison population and probation caseloads. The Department reports that it would be able to absorb the additional burden due to the fact that the numbers of persons convicted would be minimal.

ALTERNATIVES

HB315 in an amended form.

CYFD proposes the following amendments to SB 270:

Section 61-31-4 License Required, add a new section "C. Employees of the Children, Youth, and Families Department working in child protective services are exempt from li-

censure under the Social Work Practice Act.”

Section 61-31-4.1 Unlawful Practice, add a new section “G. Employees of the Children, Youth, and Families Department working in child protective services are exempt from licensure under the Social Work Practice Act.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

According to RLD, the current minimal standards remain in effect and public protection would be ensured.

The Social Workers Practice Act would remain as is currently and the life of the agency may be extended through HB 306.

POSSIBLE QUESTIONS

1. What amendments have been made to HB315 at this point?
2. Have talks between the board and CYFD resulted in any compromise resolutions?

EM/yr