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FISCAL IMPACT REPORT

01/31/11
ORIGINAL DATE 02/01/11

SPONSOR Varela LAST UPDATED 02/21/11 HB 51/aHHGAC

SHORT TITLE Exempt Employees & Personnel Board Authority SB _____

ANALYST Hoffmann/Soderquist

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		(\$0-\$6,000)	(\$0-\$6,000)	(\$0-\$18,000)	Recurring	General Fund
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	Other Funds and Federal Funds

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bill 68.

SOURCES OF INFORMATION

LFC Files
Executive Budget Recommendation, Fiscal Year 2012

Responses Received From
State Personnel Office (SPO)

SUMMARY

Synopsis of Amendment

The House Health and Government Affairs Committee amendment to HB51 provides for cabinet departments to have two assistants or deputy secretaries instead of one as proposed in the original version of the bill. This will provide the Executive more flexibility to manage executive functions by allowing the Cabinet Secretary to have two exempt, high-level positions that can focus on core business functions and on enabling support, or however the Executive deems appropriate.

The HHGAC amendment to HB51 reinserts and expands language relating to the State Personnel Board in deciding that a position is policymaking and requires the State Personnel Board to report to the Governor and LFC when it decides that a position is policymaking. This will allow the Executive the flexibility to initiate policy initiatives and manage executive functions. This will also allow the LFC to receive reports on the designation of policymaking exempt positions.

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Synopsis of Original Bill

House Bill 51 seeks to limit the number of positions exempt from the Personnel Act in executive agencies, and to eliminate the State Personnel Board’s authority to create exempt positions identified as “policy-making” from the covered service. It also would limit the number of exempt assistants or deputy secretaries by reducing the authorized number from two to one.

The bill proposes to amend Section 10-9-4(K) NMSA 1978 by reducing elected officials, members of boards and commissions and heads of agencies appointed by either the Governor or a Board/Commission from two assistants to one “administrative” assistant.

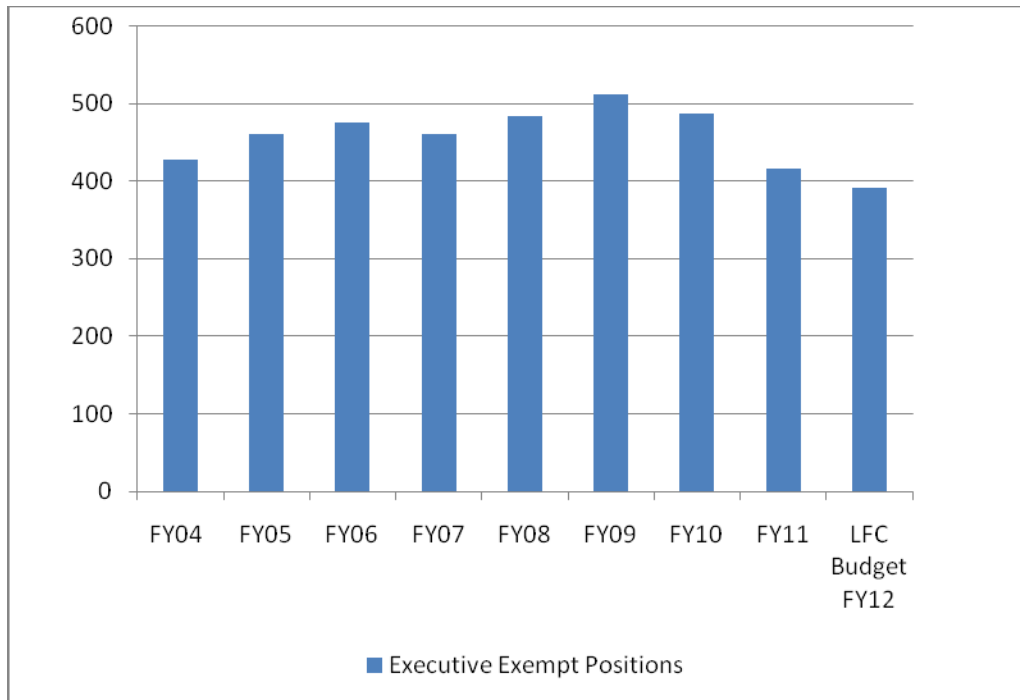
The bill would also clean up outdated language in multiple sections, including gender-neutral language to relate to the “Governor” and a “Secretary” and updating references to the Public Education Department.

FISCAL IMPLICATIONS

The amount contained in the estimate derives from the Executive Budget Recommendation for Fiscal Year 2012, which suggests that a 20 percent reduction in exempt employees would result in a recurring savings of \$6 million.

House Bill 51 makes no appropriation. If the bill is passed, the restriction on the number of exempt positions under the executive would stabilize at the number of budgeted positions by eliminating the Personnel Board’s ability to authorize additional policy-making positions.

The chart below shows the number of exempt positions beginning with 427 positions in FY04 through November of FY11, and the 392 positions budgeted by LFC for FY12.



Source: LFC Files. The data excludes Courts, District Attorneys, State Police, and Legislature

SIGNIFICANT ISSUES

Original Analysis:

According to the SPO, fewer exempt positions would have the potential to push decision making down the organizational structure, ensuing a flatter structure with fewer levels of bureaucracy. Cabinet Secretaries and agency heads would have fewer levels to go through to connect with line staff potentially resulting in a more efficient agency. This would allow for the consistent oversight of programs by having career managers involved in accomplishing the mission and goals of the agency, both during and between changes in administration.

The SPO is uncertain about the effect will be on the executive from the State Personnel Board not being allowed to designate a position to be policy-making. The State Personnel Board annually reviews the justification for each position that has been identified as policy-making and ensures that it is still needed in that capacity before approving for another year. Several policy-making positions have existed for years and some are established to support an individual policy initiative of a particular administration. For example, the former administration identified the need to establish a “DWI Czar” and a “Domestic Violence Czar”. These positions were identified as policy-making at the Department of Public Safety to oversee statewide public and private activities relating to these two issues.

PERFORMANCE IMPLICATIONS

The SPO advises that an agency should be able to absorb the work performed by exempt staff in excess of the number proposed by this bill into its classified workforce.

The office states further that if the elimination of exempt positions results in a more organized, effective agency structure, there may be an increase in the agency’s ability to meet its federal

program requirements and its performance measures included in the General Appropriations Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 51 is related to Senate Bill 68, which would specify an exact number of exempt positions in excess of current statutes for certain state agencies.

There is a potential conflict if both of these bills pass. House Bill 51 amends Section 9-1-4 NMSA 1978 to limit the number of exempt assistants and secretaries, and keeps the statutes consistent by also amending Section 10-9-4 NMSA 1978. Senate Bill 68, with its higher numbers of unallocated exempt employees would conflict with this.

JCH/bym