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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/11

SPONSOR Stapleton LAST UPDATED _____ HB 101

SHORT TITLE Collective Bargaining as Open Meetings SB _____

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 State Personnel Office (SPO)
 Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 101 proposes to amend paragraph 5 of subsection H of Section 10-15-1 NMSA 1978 (Chapter 10 Article 15 NMSA 1978 is cited as the Open Meetings Act) by removing [discussion of] “bargaining strategy preliminary to” [collective bargaining negotiations] from exemption to the open meeting statutes.

FISCAL IMPLICATIONS

House Bill 101 makes no appropriation.

SIGNIFICANT ISSUES

With the removal of the text quoted in the synopsis, “negotiations” and “sessions” between the employer and the collective bargaining unit remain closed meetings under the Open Meetings Act. The “negotiations” clause was necessary to fully define the preliminary meetings, and the new language could cause some confusion.

The SPO called attention to Subsection G of Section 10-7E-17 NMSA 1978 (PEBA) which

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contains language specifying that meetings for the discussion of bargaining strategy, collective bargaining sessions and consultations and impasse resolution are closed meetings.

The change that House Bill 101 would make to Section 10-15-1 NMSA 1978 appears to be in conflict with the open meetings section in the Public Employee Bargaining Act (PEBA) §10-7E-17 NMSA 1978 as noted above. That section specifically identifies “meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the public employer and the exclusive representative of the public employees of the public employer” as closed meetings. Section 10-15-1 NMSA 1978 uses the term “policymaking body” to refer to the employer and Section 10-7E-17 uses the term “public employer” and they appear to be synonymous.

The NMCD had the following comment.

The interests of unions are usually not the same as those of the state, a public body or the public as a whole. As a matter of fact, the interests of unions are often adverse to those of the relevant public body and the public as a whole. Thus, public bodies reasonably need to be able to discuss bargaining strategy in private. Otherwise, the unions will show up at the public meetings, will learn the public body’s bargaining strategy, and use that knowledge to gain the upper hand in the collective bargaining negotiation sessions. The interests of New Mexico taxpayers are better served when public bodies can strategize in private and then use that strategy to negotiate and obtain collective bargaining agreements containing terms more favorable to the public body and public as a whole.

JCH/mew