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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/13

SPONSOR HLC LAST UPDATED \_\_\_\_\_ HB 426/HLCS

SHORT TITLE Sunshine Portal Agencies & Info SB \_\_\_\_\_

ANALYST Boerner

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$0.0	\$0.0	\$0.0	Nonrecurring	DoIT Operating Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

**Companion to HB138** which requires the Middle Rio Grande Conservancy District to be added to the Sunshine Portal

**Relates to HB108** requiring agencies to post rule making information on Sunshine Portal

**Relates to SB157** requiring PED to post rule making information on the Sunshine Portal

**Relates to SB182** requiring state agencies to publish sole source and emergency procurement awards to the Sunshine Portal

**Relates to SB** requiring the tax expenditure budget and the dedicated budget to be published on the Sunshine Portal

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Information Technology (DoIT)

### SUMMARY

#### Synopsis of Bill

The bill amends the Sunshine Portal Transparency Act (Act) to define “classified employee” as who is not exempt,” and expand the definition of “state agency” to include the executive, legislative or judicial branch of government and restructures the “directory of employees” requirement to include the identification of both classified and exempt positions by name in addition to agency, position, title and salary. The bill also adds a new section providing for the exception of names and information pertaining to undercover peace officers and of employees who have filed for an order of protection under the Family Violation Protection Act or other order of protection pursuant to state or federal law.

Finally, a new section provides that notwithstanding Section 10-16D-3 (Sunshine Portal – Department duties) and Section 10-16D-6 (Local education providers; required information; publication by public education department on the sunshine portal), a state agency or local education provider may exclude the name of an employee from its directory if it is determined that not doing so would endanger the employee or public safety.

### **FISCAL IMPLICATIONS**

The DoIT anticipates minimal impact to the department as a result of enacting the addition of names to the Sunshine Portal. However, it would be necessary to change the current SHARE function to allow individual agencies the capability of excluding employees as necessary. The cost of the changes to SHARE functions is unknown at this time.

Currently, the Sunshine Portal provides a directory of state positions, organization and salary information for all branches of state government as called for in the existing Act. Funding for these provisions is already incorporated in the operational funds allocated for current operations of the portal. The DoIT does not anticipate additional fiscal impacts to maintain the current requirements of the Sunshine Portal Act and the addition of names. The DoIT will manage the exceptions of information by improving current process and business rules, in coordination with the DFA.

Existing DoIT operational costs for the Sunshine Portal include 1 FTE with salary and benefits of \$108 thousand. For FY13 contractual maintenance and operations costs are projected to be \$34 thousand. As with any major technical project, the initial implementation or enhancement costs will likely outweigh the year-to-year maintenance and operations significantly. In the case of the Sunshine Portal, it is anticipated that year to year costs will decrease dramatically after the initial implementation costs of new features are closed.

### **SIGNIFICANT ISSUES**

A key proposed change in Section 10-16D-3 is for the department to provide a directory of all “classified” and “exempt” employees, including the names of the individuals, but providing for the exception of names and information pertaining to undercover peace officer and of employees who have filed for an order of protection under the Family Violation Protection Act or other order of protection pursuant to state or federal law. Further, Section 10-16D-5(B) states that a state agency or local education provider may exclude the name of an employee from its directory of positions if it is determined by the state agency or local education providers that publishing the name would endanger the employee’s personal safety or the safety of the public.

The obligation to identify and exclude employees is the responsibility of each agency. However, the ability of agencies to identify employees to be excluded depends on the system that is used to capture the employee data. Therefore, it will be necessary to change the current SHARE function to allow agencies the capability of excluding employee when such determination is met by the agency.

### **PERFORMANCE IMPLICATIONS**

The DoIT has allocated staff resources to perform ongoing functions of the Sunshine Portal. Regarding the additional requirements of the directory of state employees, SHARE functional

modifications will take time to change and test but could likely be completed by the commencing date of the bill, July 1, 2013. However, it may take time for the state agencies to create rules or processes used in determining whether to exclude the names of their employees from the directory and then identify these employees within SHARE after the functionality is added.

### **ADMINISTRATIVE IMPLICATIONS**

The DoIT in coordination with DFA will work with state agencies to establish and implement a process to manage the exceptions identified in the bill. As discussed above, any administrative process changes may impact resource requirements for all agencies that have a role in providing data to the Sunshine Portal.

State agencies will need to determine, identify and exclude the name and information pertaining to an undercover peace officer and the name and information of an employee who has filed for an order of protection pursuant to the Family Violence Protection Act or other order of protection pursuant to state or federal law.

Assuming the frequency and volume of updates to the Sunshine Portal remain at current levels, existing staff and resources can be used with resulting in minimal administrative impact. Should the volume or frequency of updates increase, any consequent fiscal impact will need to be reassessed.

### **TECHNICAL ISSUES**

On page 8, Line 13 of Section 3(B) the bill states that the “the state agency shall include in the rules the factors to be used in determining whether to exclude the names of certain employees from the directory.” This may require clarification since not all agencies have rule making authority.

### **ALTERNATIVES**

Parties may request State agencies provide the data as part of an Inspection of Public Records Act request.

CEB/blm