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FISCAL IMPACT REPORT

SPONSOR Gentry ORIGINAL DATE 2/20/15
LAST UPDATED _____ HB 350
SHORT TITLE Public Employees in Tort Claims Act SB _____
ANALYST A. Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB 3 and SB 152

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 350 seeks to amend the definition "public employee" in the Tort Claims Act (NMSA 1978, Section 41-4-3(F)(7)), to expressly include licensed medical, psychological or dental arts practitioners "providing services, pursuant to a contract, to a local public body that pertain to a person held in a jail or detention facility under the local public body's jurisdiction." "Local public body" is a defined term in the Act. Under this bill, licensed health care providers providing services under contract with a local public body in a jail or detention facility would be treated the same under the Act as health care providers providing such services under contract to the corrections department.

FISCAL IMPLICATIONS

None noted.

SIGNIFICANT ISSUES

According to the AOC, Section 41-4-4 NMSA 1978 provides immunity from tort liability, except as waived by specified statutory sections, for public employees acting within the scope of

duty, which, under HB 350, will include licensed medical, psychological or dental arts practitioners providing services, pursuant to a contract, to a local public body that pertain to a person held in a jail or detention facility under the local public body's jurisdiction. Section 41-4-10 NMSA 1978, however, provides that the immunity granted pursuant to Section 41-4-4(A) does not apply to liability for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees licensed by the state or permitted by law to provide health care services while acting within the scope of their duties of providing health care services. Thus, despite the HB 350 amendment, the aforementioned licensed medical, psychological and dental arts practitioners would be liable for damages resulting from bodily injury, wrongful death or property damage caused by their negligence. (See also Section 41-4-9 NMSA 1978, providing an exclusion from liability immunity for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation of any hospital, infirmary, mental institution, clinic, dispensary, medical care home or like facilities.)

PERFORMANCE IMPLICATIONS

The bill may impact the performance measures for the court:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with SB 3 (Insurance Nominating Committee Changes) and SB 152 (Health Security Act), which also amends Section 41-4-3 NMSA 1978 to expand the definition of "public employee" to include members of the Insurance Nominating Committee and the staff and members of the Health Care Commission established pursuant to the Health Security Act.

ABS/bb/je