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FISCAL IMPACT REPORT

SPONSOR Burt ORIGINAL DATE 3/4/17
 LAST UPDATED 3/7/17 HB _____

SHORT TITLE Merge Public Safety and Emergency Departments SB 489

ANALYST Rogers

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$0.0	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	(Minimal)	(Minimal)	(Minimal)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorney (AODA)
 Office of the Attorney General (OAG)
 State Personnel Office (SPO)
 Public Regulation Commission (PRC)
 Indian Affairs Department (IAD)
 Department of Health (DOH)
 Department of Military Affairs (DMA)
 Department of Public Safety (DPS)
 Department of Homeland Security and Emergency Management (DHSEM)

Responses Not Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 489 proposes to abolish the Department of Homeland Security and Emergency Management (DHSEM) and move its functions into a division under the Department of Public Safety (DPS).

Section 1 amends 3-18-7 NMSA 1978 regarding county and municipal powers with regard to flood and mudslide hazard areas, flood plain permits, and land use control by adding language to paragraph H to indicate that the DHSEM is now a division of DPS.

Sections 2 through 5 amend 9-19-3 NMSA 1978 through 9-19-7 NMSA 1978 regarding the organization of DPS, to include homeland security and emergency management functions and personnel as safety functions and responsibilities of DPS and as a defined organizational unit within the Department of Public Safety structure.

Section 6 would enact a new section of the Department of Public Safety Act regarding cooperation with the federal government, the authority of the secretary, and single state agency status designation by the Governor when such designation is a condition of federal financial or other participation in the program under federal law, rule, or order.

Sections 7 through 14 amend the All Hazard Emergency Management Act to reflect that DHSEM is now a division of DPS.

Sections 15 and 16 amend the Public Health Emergency Response Act to reflect that homeland security and emergency management is now a division of DPS.

Sections 17 through 19 amend the Emergency Communications Interoperability Act to reflect that the “department” is now the Department of Public Safety and that homeland security and emergency management is a division of the DPS.

Sections 20 through 22 amend the Hazardous Materials Emergency Response Act to reflect that “director” means the director of the division of homeland security and emergency management division of the Department of Public Safety, adding new definitional paragraphs G and H to 12-12-19 NMSA 1978. Paragraph M is re-designated paragraph O and amended, deleting language about the “hazardous and radioactive materials bureau of the water and waste management division of the” department of environment, leaving only the name of the department of environment. The position of “hazardous materials emergency response administrator” is created by Section 22 of SB 489, by amending 12-12-23 NMSA 1978.

Sections 23 through 29 amend the Uniform Emergency Volunteer Health Practitioners Act by identifying homeland security and emergency management as a division of DPS.

Section 30 amends the language of 12-12B-4 NMSA 1978 from referring to the secretary of homeland security to the director of homeland security and emergency management division of the Department of Public Safety.

Section 31 amends the language of 15-8-6(B)(2) NMSA 1978 by deleting “homeland security and emergency management department” as an entity with state vehicles.

Section 32 amends the language of 74-4E-3 NMSA 1978 of the Hazardous Chemicals

Information Act to clarify that “department” means the homeland security and emergency management division of DPS.

Section 33 transfers function, appropriations, and property of DHSEM to DPS.

Section 34 repeals the Homeland Security and Emergency Management Department Act in its entirety.

The bill is effective July 1, 2017.

FISCAL IMPLICATIONS

SB 489 does not contain an appropriation. The bill creates a new division to capture the needed functions of DSHEM but does not designate they be placed into a particular DPS program.

Neither DHSEM nor DFA responded to analysis requests for this bill.

DPS reports the bill will not generate significant savings immediately but may generate savings from efficiencies realized in the future. A total savings of 4.2% has been realized by DHSEM since FY11. The merging of the two agencies will sustain these savings and add value through improving the public safety functions of each, as is provided by this bill. Before DPS analysis was received, the bill was estimated to generate \$500 thousand to \$2 million of savings, mostly realized through elimination of duplicative positions. DPS states all positions will be needed to manage the complicated duties currently managed by DHSEM.

Before analysis from DPS was received, LFC analysis estimated the bill could save between \$500 thousand and \$2 million of general fund, mostly in eliminating duplicative personnel services and employee benefits costs. If half of DHSEM’s administrative staff were eliminated, \$584.7 thousand would be saved. Assuming half of homeland security’s technical staff were eliminated, \$810.1 thousand could be saved. Personnel savings alone could total \$1.4 million. LFC analysis assumes many of DHSEM’s current contracts and other costs would remain intact in order to carry out the duties of the new homeland security and emergency management division at DPS.

Currently, DHSEM has a total 66 positions as shown on the SPO Organizational Listing report (16 permanent and 50 term) and a general fund budget of \$2,598.7 thousand. The table below shows the department’s FY17 operating budget and the currently proposed FY18 budget.

Sources	DHSEM FY17 Adjusted Operating Budget	DHSEM FY18 HB2 House/SFC Budget
General Fund	\$ 2,598.7	\$ 2,481.4
Other Transfers	\$ 150.8	\$ 150.8
Federal Revenues	\$ 14,840.0	\$ 13,487.2
Other Revenues	\$ 110.0	\$ 110.0
Total	\$ 17,699.5	\$ 16,229.4

Sources	DHSEM FY17 Adjusted Operating Budget	DHSEM FY18 HB2 House/SFC Budget
Personal Services and Employee Benefits	\$ 5,265.0	\$ 4,850.0
Contractual Services	\$ 1,807.4	\$ 1,495.6
Other Revenues	\$ 10,627.1	\$ 9,883.8
Total	\$ 17,699.5	\$ 16,229.4

For FY17, DPS has a total 1,320.25 positions (1,222.25 permanent, 98 sponsored term) and a general fund budget of \$120,628.4 thousand. The table below shows the department’s FY17 operating budget and the currently proposed FY18 budget.

Sources	DPS FY17 Adjusted Operating Budget	DPS FY18 HB2 House/SFC Budget
General Fund	\$ 120,628.4	\$ 119,068.8
Other Transfers	\$ 11,934.6	\$ 5,051.5
Federal Revenues	\$ 13,437.4	\$ 13,662.3
Other Revenues	\$ 4,829.4	\$ 7,109.4
Fund Balance	\$ 350.0	\$ 1,190.0
Total	\$ 151,179.8	\$ 146,082.0

Sources	DPS FY17 Adjusted Operating Budget	DPS FY18 HB2 House/SFC Budget
Personal Services and Employee Benefits	\$ 107,070.1	\$ 107,362.9
Contractual Services	\$ 6,513.6	\$ 4,979.6
Other Revenues	\$ 37,596.1	\$ 33,739.5
Total	\$ 151,179.8	\$ 146,082.0

SPO states “there should be noticeable (indeterminate at this time) savings through the elimination of duplicated administrative duties and other operational efficiencies. A thorough Human Capital study should be conducted by the State Personnel Office, in conjunction with the DHSEM and the DPS, entailing further in-depth analysis required to identify specific savings from this merger, including a detailed review of position functions to pinpoint where and why duplications exist, how bureaus and sections can be combined to provide the utmost efficiency, organizational alignment, and job measurement.”

DHSEM’s actual personal services and employee benefits expenditures were just over \$2 million, all funding types included. Historically, the department has suffered from vacancy rates near 30 percent. Analyzing the February 2017 SPO Organizational Listing Report, 27 of the 66 total administrative type positions within the department: 7 positions within the Office of the Director and 20 positions within the Administrative Services division. SPO states “a streamlined organizational structure would reduce operating costs and eliminate redundancy. By re-engineering and streamlining business processes there could be potential increases in efficiency and effectiveness.”

In 2011 (House Bill 54), LFC and DFA staff estimated a general fund savings projection from this merger, estimating the merger would eliminate 12 positions and save about \$895,800 General Fund. However, the 2011 analysis included the E-911 program of the Department of Finance and Administration and the Fire Marshall's Office of the Public Regulation Commission.

SPO explains Section 33 transfers all functions, appropriations, money, records, furniture, equipment, supplies and other property of the DMSEM to DPS, as well as all contractual obligations. If passed and signed into law, SPO believes the General Appropriations Act of 2017 would need to be modified to capture the organizational change.

SIGNIFICANT ISSUES

SPO explains there may be a conflict of missions when the departments are re-combined. DPS' mission is to be the state's law enforcement agency and to enforce laws and protect the public as needed role in a disaster or emergency. DHSEM's mission, as the central primary coordinating agency for the state and its political subdivisions, is to consolidate and coordinate emergency management functions to provide comprehensive and coordinated preparedness, mitigation, prevention, protection, response and recovery for emergencies and disasters, regardless of cause. "Because DHSEM and DPS have different missions during disasters or emergencies, it would be critical to recognize and address this operationally to ensure the DPS's effectiveness in a disaster or emergency response."

SPO notes that except as otherwise provided in the act, the division director shall serve as the coordinating officer for all departments and agencies and all department and agency employees required to provide services after an emergency has been declared by the Governor. The bill authorizes the Governor to designate DPS as the single state agency for administration of any homeland security or emergency management program when that designation is a condition of financial or other participation in the program under applicable federal law, rule, or order.

SPO also explains the bill contains a new section authorizing the DPS to cooperate with the federal government in the administration of homeland security and emergency management programs in which financial or other participation by the federal government is authorized or mandated under state or federal laws, rules or orders. DPS may enter into agreements with agencies of the federal government to implement homeland security and emergency management programs subject to availability of appropriated state funds and any provisions of state laws applicable to such agreements or participation by the state. The bill provides that no designation of a single state agency under the authority granted shall be made in contravention of state law.

AODA submitted the following detailed analysis:

In 2011 the Government Restructuring Task Force proposed transferring the Homeland Security and Emergency Management department to the Department of Public Safety ("DPS") and HB 54 was introduced by Rep. Varela to do that. It proposed putting all the divisions listed above, except for the law enforcement academy, into DPS, along with the special investigations division, training and support division, motor transportation division, fire marshal division and enhanced 911 division. It passed the House but the Senate took no action and it died when the session ended. A modified version of the bill that notably did not include the fire marshal or enhanced 911 divisions was introduced as HB 30 in the 2011 special session by Rep. Kintigh but never even got a hearing and died.

SB 489 would repeal the Homeland Security and Emergency Management Act. See, Sects. 9-28-1 to 9-28-7 NMSA 1978. The core duties of the Act would be moved into DPS. See, Sect. 9-28-5 NMSA 1978. The bill would enact a new section designating DPS as the primary state agency to “cooperate...(and) enter into agreements with agencies of the federal government to implement homeland security and emergency management programs” and administer those programs for New Mexico state government.

To accomplish the merger the bill would amend sections of the following categories of statutes, mainly to indicate homeland security and emergency management functions merger into DPS: Additional County and Municipalities Powers; Department of Public Safety Act; Homeland Security and Emergency Management Department Act; All Hazard Emergency Management Act; Public Health Emergency Response Act; Emergency Communications Interoperability Act; Energy Emergency Powers Act; Uniform Emergency Volunteer Health Practitioners’ Act; Emergency Gas Pilot Relighting Act; Transportation Services Act; and, Hazardous Chemicals Information Act.

Homeland security and emergency management programs were first formally recognized by the state in 1959 when the emergency management office was created as the Civil Emergency Preparedness Division of the Office of Military Affairs. It was reorganized in 1979 and in 1987 was moved to DPS, and in 1990 was re-named Office of Emergency Management (“OEM”). In 2003 Governor Richardson created the Governor’s Office of Homeland Security and it worked with OEM. In 2007 the Homeland Security and Emergency Management Department was created with the passage of HB 227. That bill moved the Office of Homeland Security from the Governor’s office and the Emergency Management and Homeland Security Support Program from DPS to create the new department.

When consolidation of the Homeland Security and Emergency Management department back into DPS was considered in 2011, legislative analysts reported then that financial savings from the proposed merger were speculative but might save several hundred thousand dollars. The executive departments reported that just as important as the cost savings would be greater efficiencies and effectiveness of operations. They noted that DPS staff working with the federal grants managed by the department (e.g., Bryne, JAG, HIDTA, etc.) could not assist in any homeland security grants. Consolidating the departments and designating DPS as the single state agency working on homeland security and emergency management programs could allow grant managers to work across what otherwise might be rigid grant management guidelines. Since New Mexico district attorneys have some interaction with grants from the United States Department of Justice if federal grant applications and awards are enhanced the merger could benefit state prosecutors.

DPS submitted the following analysis:

Prior to July 1, 2007, (FY08), the Office of Emergency Management and Homeland Security was a program within the Department of Public Safety. This bill returns the homeland security and emergency management functions, personnel, property and appropriations to the Department of Public Safety.

DPS and DHSEM both respond to disaster and other incidents that require both law enforcement and resource incident management response. DPS adopted the incident

command structure in the early 1980's in an effort to provide a unified command structure and partnership with fire, EMS, and other emergency response agencies. Today both DPS and DHSEM utilize the incident command structure and operate in coordination with each other during critical incidents.

The sharing of essential information and resources would be better facilitated through the merger of DPS and DHSEM. This merger will allow for a coordinated effort to provide critical training to fire, EMS, and law enforcement personnel throughout the State of New Mexico. Also, DPS does not have direct access to state emergency funds when the Governor declares an emergency. When disasters such as fires strike, DPS deploys significant resources (which can cost hundreds of thousands of dollars) to enhance public safety in the areas affected by the disaster. The associated expenses come out of the current operating budget until reimbursement is received through DHSEM. The reimbursement process can take an extended period of time. In some instances the reimbursement comes after the end of the fiscal year, negatively impacting the DPS operating budget available for other public safety operations. The merger would partially alleviate this negative impact on public safety.

In addition, federal law mandates the establishment of a 700 MHz public safety communications system. The NMDPS is the only law enforcement agency within the State of New Mexico who operates a statewide law enforcement communications system. With the addition of DHSEM to DPS, together we can better recognize the communication needs of first responders. Currently, DHSEM maintains oversight and maintenance of Public Safety Interoperability Communication (PSIC) within New Mexico. In partnership with DoIT, the merger of DHSEM and DPS will further the capability and capacity for PSIC systems, statewide.

The merger would also enhance the function of the Fusion Center for New Mexico. Fusion centers play an important role in countering terrorism, violent extremism and protecting local communities from crime through their daily operations, including gathering, analyzing, and sharing threat information and intelligence. However, the fusion center is not currently 28 CFR compliant with an essential certification through the Federal Bureau of Investigation (FBI) to be able to utilize the National Crime Information Center (NCIC) systems to further their intelligence capabilities. Merging DPS and DHSEM will allow for DHS to become compliant with federal guidelines and broaden participation, information sharing, and intelligence networking with all law enforcement resources.

Overall, this bill will create a more streamlined and effective agency with the capability to deliver products and services to the first responder community.