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FISCAL IMPACT REPORT

ORIGINAL DATE 03/01/19

SPONSOR Trujillo,CH LAST UPDATED _____ HB 659

SHORT TITLE Public Employee Bargaining Changes SB _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Municipal League (NMML)
Public Employees Labor Relations Board (PELRB)

Response Not Received From

State Personnel Office (SPO)

SUMMARY

Synopsis of Bill

House Bill 659 (HB659) proposes allowing collective bargaining agreements to supersede other previously enacted legislation, including the State Personnel Act and amends sections of the Public Employee Bargaining Act (PEBA) to mirror protections afforded under the National Labor Relations Act.

HB659 adds language stating that public employees, other than management, have the right to engage in other concerted activities for mutual aid or benefit.

The bill provides PELRB additional authority to impose compensatory damages, make whole relief or any other equitable remedy for violations for the PEBA.

HB659 strikes a provision requiring 40 percent of eligible employees to vote in the selection of a labor organization as the representative of public employees. House Bill 659 also proposes a six-month limitation period for the filing of claims by a public employee that the exclusive

representative has violated a duty of fair representation and proposes a simple majority for representation elections.

HB 659 eliminates restrictions on enforcement of arbitration decisions by requiring an appropriate governing body to consider the re-appropriation of funds. Finally, the bill makes minor changes to make the Act gender neutral.

FISCAL IMPLICATIONS

Neither responding agency noted a fiscal impact associated with enactment of HB659.

SIGNIFICANT ISSUES

The provisions of HB659 allowing collective bargaining agreements to supersede statute gives those agreements the force of law without a process for Legislative review. Additionally, the removal of the requirement that at least 40 percent of eligible employees vote to select an exclusive representative may lead to a small minority of employees voting to form an exclusive unit.

The NMML notes:

Section 3 of the bill establishes the right of public employees, other than management employees to engage in “other concerted activities for mutual aid or benefit”. This right is in addition to the right to join or assist labor organizations for the purpose of collective bargaining. Conferring such a broad and unrestrained right could lead to concerted activities that do not promote harmony and good relations between management and labor. If there were specific types of concerted activities that were contemplated by the bill a better practice would be to specifically include those practices in the law.

The bill would also confer upon the state labor relations board and local labor boards the ability to “impose compensatory damages, make whole relief or any other equitable remedy, declaratory or injunctive relief, provisional remedies, such as temporary restraining orders or preliminary injunctions”. Such remedies are traditionally judicial functions, particularly when it comes to imposing equitable relief.

PELRB reports:

Under the current law PELRB jurisdiction may be challenged for failure to exhaust administrative or contract remedies such as grievance-arbitration; or because the subject matter is otherwise pre-empted by the State Personnel Act or SPO rules or regulations. The proposed amendment would resolve such challenges in favor of the Board’s jurisdiction.

The PELRB strongly favors the statement of appropriate administrative remedies to include reinstatement of employees, including State employees, with or without back pay, and pre-adjudication injunctive relief and damages, costs and attorney fees.

Despite the impact on provisions of the State Personnel Act, SPO declined to provide analysis of HB659.

CJ/al