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FISCAL IMPACT REPORT

ORIGINAL DATE 1/20/2019
SPONSOR Ortiz y Pino **LAST UPDATED** 1/20/2019 **HB** _____

SHORT TITLE Legal Services for Land Grants and Acequias **SB** 244

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate*			Indeterminate*	Recurring	Community Governance Attorney and Conditional Tuition Waiver Fund

(Parenthesis () Indicate Expenditure Decreases)

*Funding for the purpose of this program are not specified or appropriated in the bill and could come from general fund, grants, donations, or other sources.

Duplicates House Bill 32.

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Acequia Association (NMAA)
 Office of the State Engineer (OSE)
 New Mexico Attorney General (NMAG)
 University of New Mexico (UNM)

SUMMARY

Synopsis of Bill

Senate Bill 244 creates the community governance attorney conditional tuition waiver program for third year law students at UNM, establishes the community governance attorney commission, and creates the community governance attorney and conditional tuition waiver fund. The program is designed to support the provision of legal services to culturally unique governmental entities—such as acequias and land grant-mercedes—and low-income residents of unincorporated colonias in New Mexico by providing an incentive, in the form of a waiver, for law students to pursue at least two years as a community governance attorney, defined as “an attorney with a legal practice that is focused on the requirements and challenges faced by small political subdivisions and unincorporated communities, including promulgation of land and water use ordinances, contracting and the collection or payment of taxes and fees.”

The waiver, or loan, is provided in an amount sufficient to cover tuition, fees, and reasonable living expenses for the third year of formal legal education and bar review courses commonly taken by law school graduates prior to taking the bar examination. The waiver can also be used for living expenses incurred while participating in clinical programs or internships. The waiver is forgiven 50 percent for each year an individual works as a community governance attorney (total 2 years). If a recipient of a waiver does not become a community governance attorney, the loan is not forgiven and the maximum period for repayment is 10 years.

The commission established is composed of five members, which are the Secretary (or designee) of the Higher Education Department (HED), the dean of UNM Law School or the dean's designee, and three members appointed by the governor: 1) a member of an acequia; 2) a current or past member of a land grant commission; and 3) a current or past member of a colonias infrastructure board who is a resident of a colonia. The commission's duties include assisting HED with recommendations on program applicants and rules to implement provisions of the act, soliciting proposals for disbursement from the fund created, and entering into contracts for expenditure of the fund to provide community governance attorney services for these types of small political subdivisions.

The fund created pursuant to this bill shall consist of money appropriated, donated, or otherwise accruing to the fund, including repayment of loans and any penalties (interest). Balances are nonreverting.

The effective date of this bill is July 1, 2019.

FISCAL IMPLICATIONS

The bill enacts the Community Governance Attorney Act and creates a fund to support the purposes of the Act but it does not contain an appropriation. Although this bill does not contain an appropriation, funds will be required to create the program, pay per diem to board commission members and provide financial assistance to participating law students who provide community attorney services for acequias, colonias, and land grants-mercedes.

Based on the UNM Law School's website, that the average cost for tuition, fees, and living expenses for a year of law school, assuming in-state tuition, is \$33.3 thousand. The bill authorizes the issuance of up to two waivers per year. However, because the bill contains no funding, providing waivers or other legal support would require substantial donations or appropriations be made to the fund.

In addition to costs associated with the waivers, UNM notes that there is minimal fiscal impact to its operating budget. The fiscal impacts to UNM relate to providing space for the Commission and staffing the Commission will likely be minimal. It is likely that UNM could absorb costs within its existing operating budget.

SIGNIFICANT ISSUES

UNM recommends "that the bill be amended to direct the Higher Education Department (HED)—and not UNM—to provide legal services to the Commission with regards to the solicitation of proposals for disbursement from the fund for legal services and entering into contracts with legal services provider" to avoid conflicts of interest.

UNM also notes that the bill currently allows the Commission to enter into legal services contracts only with “the university [UNM] or with nonprofit organizations whose mission is to provide a range of free legal services to low-income New Mexicans.” UNM suggests that the bill could be amended to allow the Commission to enter into contracts with state government bodies that have a mission of providing no-cost services to acequias, land grants, or colonias. For instance, the New Mexico Attorney General and the Land Grants Council have provided or funded legal services for these communities, and UNM recommends that adding state government bodies as eligible for legal services contracts, would strengthen the program.

There already exists in statute one legal education loan repayment act, the Public Service Law Loan Repayment Act (Sections 21-22F-1 through 11, NMSA 1978). The act provides for granting awards to recipients to repay loans obtained for legal education expenses of a participating attorney who engages in public service employment, which is defined as employment with:

1. an organization that is exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code and that provides for the care and maintenance of indigent persons in New Mexico through civil legal services;
2. the public defender department; or
3. a New Mexico district attorney's office.

ADMINISTRATIVE IMPLICATIONS

UNM and HED have new administrative duties under the bill and should work together in drafting rules that will achieve the objectives of the legislation.

OTHER SUBSTANTIVE ISSUES

The completion of the service obligation required by the tuition waiver program by participating attorneys who may elect to leave the rural communities makes it difficult to determine the long term retention rates for this program.

ALTERNATIVES

It may be simpler and more effective to incorporate the intent of this bill into the existing Public Service Law Loan Repayment Act by expanding the definition of public service to include practicing law primarily serving small political subdivisions such as acequias, land grantmercedes, and unincorporated colonias.

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