F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	2/15/2020		
SPONSOR	SPAC	**LAST UPDATED**	2/17/2020	**HB**	
SHORT TITLE	Report of Continuing Car Act Violations			**SB**	CS/SB51/aSJC
				ANALYST	Martinez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$82.3	$82.3	$164.6	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB218

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Attorney General (NMAG)
Aging and Long Term Services Department (ALTSD)

SUMMARY

Synopsis of SJC amendment

The Senate Judiciary Committee amendment for Senate Public Affairs Committee Substitute for SB51 removes section 7C in its entirety. In Section 2B (30) removes that a contract contain a provision describing the community's plan for resident relocation upon liquidation and insolvency, and includes that circumstances that necessitate relocation are sufficient. In Section 3, the amendment requires that a provider shall provide a copy of the disclosure statement to the Aging and Long-Term Services Department by July 1, 2021 and each year thereafter within one hundred and eighty days after the end of a community's fiscal year. Section 4 A clarifies that the Aging and Long-Term Services Department shall review disclosure statements providers operate in accordance filed pursuant to the Continuing Care Act for compliance with the act. Section 5 states that the Aging and Long-Term Services Department shall promulgate all rules and regulations necessary or appropriate to administer the provisions of the Continuing Care Act.

Synopsis of Original Bill

Senate Bill 51 is proposed legislation relating to changes in the Continuing Care Act and requires the Attorney General to accept and review alleged violations reported from any source.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The Office of the Attorney General notes:

> SB51 would require additional funds to the NMAG's operating budget to accept and review alleged violations of the Continuing Care Act, which would require investigation, time and resources, for a total of $82.3 thousand per fiscal year. The funds would primarily be utilized for one investigator for approximately one year and therefore would need to be recurring, depending on the number of allegations reported to the NMAG.

SIGNIFICANT ISSUES

The Aging and Long Term Services Department notes:

> Continuing Care facilities are those which residents normally pay large up-front costs that offer a myriad of services including independent living units, residential amenities, meals, activities, transportation, physicians, rehabilitative services, skilling nursing, memory care and hospice care. Issues that have arisen involve the solvency of these organizations with little or no equity to cover unexpected short falls in cash flow resulting in bankruptcy and the need to relocate residents with very short notice.
>
> SB51 allows for better oversight of Continuing Care Retirement Communities. The Aging and Long-Term Services Department's staff lack the training and expertise needed to review the complex financial data submitted in the disclosure statements it receives from providers. Therefore, ALTSD has struggled to identify possible financial violations of the Continuing Care Act, beyond the basic requirements of the Act. The CCRC structure is essentially an implied insurance product which is not underwritten. To that end, OSI may be more equipped to substantively evaluate the financial disclosure statements provided. OSI's assessment of the financial solvency of the providers would provide greater protection to the residents of those communities, many of whom have invested a significant amount of their life savings to reside there.
>
> The deletion of the language "insolvency" and "liquidation" does not change the substance, that the CCRC's will have to provide some form of relocation plan for residents should the CCRC close, for any reason.
>
> The amended language is Section 1 clarifies that the certification should be made based upon the comprehensive review that's referenced early in the subsection. This clarified requirement will provide residents with greater transparency regarding the solvency of the CCRC, and if there are any concerns about potential closure, ALTSD can work with the CCRC, the State Long Term Care Ombudsman, DOH and other state agencies to prepare for any potential closure.

PERFORMANCE IMPLICATIONS

The Office of the Attorney General notes:

> This bill would require more investigative action from the OAG, and upon receipt of credible allegations, additional legal action as well.

ADMINISTRATIVE IMPLICATIONS

The Office of the Attorney General notes:

> This bill may require additional resources to fulfill obligations of OAG.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB218

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Current law limiting CCA regulation to the aging and long-term services department will remain in place.

JM/rl/sb