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FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/2020

SPONSOR SJC LAST UPDATED _____ HB _____

SHORT TITLE Public Records Pertaining to Certain Claims SB 64/SJCS

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI					

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB108

SOURCES OF INFORMATION

Attorney General's Office (AGO)
 General Services Department (GSD)
 Office of the State Auditor (OSA)

SUMMARY

Synopsis of Bill

The Senate Judiciary Committee Substitute for Senate Bill 64 (SB64) amends NMSA 1978, Section 15-7-9 (1981) to provide additional transparency for records maintained by the Risk Management Division (RMD) of the General Services Department (GSD) related to damage claims against a governmental entity, public officer or public employee. SB64 allows the New Mexico legislative council, an employee of the legislative council or a state employee acting within the scope of their duties to inspect records maintained by RMD/GSD.

SB64 allows the public to inspect a settlement agreement for damage claims against a governmental entity, public officer or public employee after the earliest of: the issuance of a final judgement resolving the claim and all appeals or rights to appeal have been exhausted; or the date a settlement agreement is signed by all parties.

Additionally, SB64 eliminates a 180 day delay in record inspection as well as a requirement that a claim has been placed on closed status by RMD. Finally, SB64 removes language stating that any person who reveals records pursuant to 15-7-9 NMSA 1978 would be guilty of a misdemeanor and that the state shall not employ a person convicted of such a violation for 5 years.

FISCAL IMPLICATIONS

In response to request for analysis of SB64 as introduced, GSD did not note any specific costs associated with enactment of the provisions of SB64.

SIGNIFICANT ISSUES

The OSA, in response to request for analysis of SB64 as introduced, stated SB64 will improve transparency in government and eliminate both an unnecessary delay period and ambiguity in existing law as to when records become available for public inspection.

GSD reports that criminal penalties and a ban from state employment in current statute provides a disincentive for public employees to produce RMD records for inspection.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

AGO notes:

House Bill 108 seeks to prohibit the disclosure of sensitive personal information acquired by virtue of the employee's position with a state agency to the public with certain exceptions, including, the Inspection of Public Records Act. HB108 does not list NMSA 1978, Section 15-7-9 as an exception.

CJ/al