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FISCAL IMPACT REPORT

SPONSOR <u>Garcia, M</u>	LAST UPDATED _____
	ORIGINAL DATE <u>1/23/2023</u>
SHORT TITLE <u>Background Artist Act</u>	BILL NUMBER <u>House Bill 23</u>
	ANALYST <u>Hanika-Ortiz</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal		Recurring	OSF
Total						

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Economic Development Department (EDD)
 Workforce Solutions Department (WSD)

SUMMARY

Synopsis of House Bill 23

House Bill 23 amends Section 5-4-2 NMSA 1978 (for employment law) to enforce fair treatment, reasonable working conditions, and proper payment of wages for background artists.

Section 1 requires the employer pay for services rendered the first half of the month, by the 22nd day, and for the last half of the month, by the 7th day of the following month. Section 2 cites the proposed “background artist act,” Section 3 defines a background artist, Section 4 creates a “bill of rights” for background artists, Section 5 enforces the act with full payment of wages not paid, civil damages, and conditions on eligibility for the film production tax credit, and Section 6 creates criminal penalties, fines, and restitution for employers who fail to pay in the required timeframe.

The bill defines a “background artist” as a non-performing artist whose work includes atmospheric noise, special abilities other than stunts, and substituting for actors as a double or stand-in.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The bill creates a civil cause of action against employers of background artists who fail to pay and makes them liable for twice the value of unpaid wages, court costs, and attorney fees.

The bill requires the WSD to investigate complaints, enforce the proposed act, and adopt rules.

EDD notes the bill's proposed timeframes for payment of wages would apply to all employers of background artists irrespective of whether the employer's payroll is processed in or out of state.

SIGNIFICANT ISSUES

EDD reports potential conflicts with Screen Actors Guild – American Federation of Television and Radio Artists (SAG-AFTR), the SAG-AFTRA/Netflix contract, and WSD and Occupational Safety and Health mandates but did not elaborate except to say the bill creates significantly greater penalties for employers of background artists than for other employers throughout the state.

EDD also suggested the penalties could result in a potential reduction of the number of productions that film in the state and a potential reduction of production money spent in the state. These reductions would result in a loss of jobs for New Mexicans working in and with the film industry.

ADMINISTRATIVE IMPLICATIONS

WSD will be required to adopt rules to carry out the purposes of the background artist act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

EDD notes proposed film tax credit legislation includes language requiring all outstanding debts to be paid before a production can apply for the film tax credit which is inclusive of background artists. This is a more efficient solution without the negative repercussions this bill could bring.

TECHNICAL ISSUES

The bill references the Film Production Tax Credit Act and that the production would have to agree in writing to pay the background actors to be eligible for the film tax credit. The Film Division of EDD further notes that the division is responsible for ensuring productions have met legislative requirements before they can apply for the film tax credit. Additionally, because the Film Division is not mentioned in this bill, the oversight for the payment of background artists would fall to WSD which is identified as the department responsible for ensuring background artists are paid.