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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/21/23

SPONSOR Castellano/Sanchez

BILL
NUMBER House Bill 419

SHORT TITLE Publication of Licensing Info

ANALYST Anderson

REVENUE* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
\$25.0	\$25.0	\$25.0	Recurring	State Records Center

Parentheses () indicate revenue increases.

*Amounts reflect most recent version of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$29.2	\$29.2	\$29.2	\$58.4	Recurring	RLD Personal Services Employee Benefits Category
	\$11.0	\$11.0	\$11.0	\$33.0	Recurring	RLD publication costs to State Records Center
	\$50.0			\$50.0	Nonrecurring	RLD Contractual and Other Costs Categories
	Indeterminate but Substantial	Indeterminate but Substantial	Indeterminate but Substantial	Indeterminate but Substantial	Recurring	NMDOT Personal Services and Employee Benefits and Contractual Costs categories
Total	\$90.2	\$40.2	\$40.2	\$141.1		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From

Regulation Licensing Department (RLD)
 Office of the Attorney General (NMAG)
 Commission of Public Records
 Department of Transportation (NMDOT)

SUMMARY

Synopsis of House Bill 419

House Bill 419 (HB419) would enact the Licensing Timeframes Transparency Act. This bill is relates to licensing performed by state and local agencies. State and local agencies would be required to publish a list of the timeframes in which licenses, permits, or other regulatory approvals have been acted on or remain pending. The list would be issued by agencies on a biannual basis. The reports would provide the number of average pending, median, maximum, and maximum pending timeframes for each permission type. Agencies within the judicial or legislative branches would be exempt from the provisions of HB419.

The bill defines a permission as “any governmental authorization in the form of a permit, license, right of way, right of entry, business lease, clearance, location or siting approval or similar approval and any renewal, revision, modification or amendment thereof requiring separate authorization.”

Reports agencies will be required to submit to the State Records Center for publication include

- (1) List of types of permission the agency is required or authorized to issue;
- (2) The number of final agency actions taken on each type of permission during the six-month reporting period;
- (3) The average timeframe, median timeframe, and maximum timeframe for each type of permission during the six-month reporting period;
- (4) The average pending timeframe and maximum pending timeframe for each type of permission; and
- (5) The number of applications for each type of permission that were submitted prior to the end of the six-month reporting period for which the agency had not take action by the end of the reporting period.

Agencies would be required to submit reports before the last day of January and July of each year.

The effective date of this bill is January 1, 2024.

FISCAL IMPLICATIONS

While annual costs at each individual agency affected by HB419 might be minimal, the extremely broad language in HB419 for reports for “any governmental authorization in the form of a permit, license, right of way, right of entry, business lease, clearance, location or siting approval” means those costs, in larger and smaller amounts, would be multiplied over hundreds of state and local agencies that license drivers, builders, anglers and hunters, restaurants, businesses, insurance companies, and on and on. Some of these agencies, like RLD, have some capacity to create the required reports, with existing data systems and staff, but many, especially those in small communities, would be unable to absorb these responsibilities without substantial investment.

The Regulation Licensing Department (RLD), which includes most occupational licensing boards and commissions, estimates the cost to update the department’s data systems and create

custom software for divisions (including boards not in the department but administratively) to be a nonrecurring \$50 thousand. RLD has already requested a \$5 million special appropriation for FY24 to complete the modernization of the Boards and Commissions licensing systems.

RLD says just over 60 percent of licensing, including that of administratively attached boards and commissions, (such as the Board of Pharmacy and the Board of Licensure for Professional Engineers and Surveyors), is conducted through electronic systems. RLD states funding for the development of these systems would be needed at the beginning of FY24 to enact the provisions of HB419 by January 1, 2024.

In addition to the nonrecurring \$50 thousand RLD estimates for system updates and development, a recurring \$29 thousand would be needed for FTE to compile and write biannual reports. The agency said it would need an additional 1 or 2 FTE per division for report processing. RLD has approximately 40 funded but vacant FTE of 349.6 authorized as of November 2023.

Finally, RLD stated it would incur publication costs of \$11 thousand annually to the State Records Center:

Publication costs in the New Mexico Register with the State Records Center and Archives is approximately \$75 to \$85 for each word page of regular, 10 point, Times New Roman text. Each report may be upwards of two (2) pages – for each RLD Division and for each administratively attached board and commission. Going with the more conservative estimate of \$75 per page, annual publication fees would exceed eleven thousand dollars (\$11 thousand) per year for the RLD.

The Commission of Public Records estimated \$2,500 in increased revenue for the State Records Center for each fiscal year after HB419 is enacted.

SIGNIFICANT ISSUES

RLD has six divisions that license and regulate professions and industries while housing around 30 boards and commissions, which equates to a large volume of required reporting within the provisions of HB419. RLD raises concerns about the bill not providing an appropriation to cover costs of software development, FTE, and State Records Center publishing costs.

The Office of the Attorney General echoed RLD's concerns about the large volume of reporting requirements:

The number of professional and occupational licenses and other types of “permissions” issued by the state is voluminous. While compiling statistics for some agencies with only a few license types may not be difficult, some agencies oversee dozens of licenses which makes compiling information on a regular basis potentially incredibly challenging. Some licensing boards have dozens of license types, and it is unclear within the parameters of HB419 if different application types need to be reported separately with their own measurements or combined by license type (examples of different application types of the same license include: expedited licensure; expedited military licensure; temporary or provisional licensure; reciprocal licensure; conditional licenses; limited licenses; and many others). If every application type for every license type were included in reporting, agencies such as the Regulation and Licensing Department would likely have thousands

of different permissions to track.

In October 2022, RLD experienced a cybersecurity incident that affected the entire agency. Through a special appropriation funding request of \$3 million, the agency is seeking protection from further incidents. The agency does not have an information technology or cybersecurity program and it is preparing to modernize its software systems to protect vulnerable information. Any further reporting and software systems implemented by RLD should be improved prior to the compilation and release of sensitive information.

The Department of Transportation (NMDOT) says the broad definition of “permission” could apply to thousands of items issued by the agency’s multi-modal transportation programs and provided a list of at least 36 examples. The agency responds it would also likely require additional FTE to collect data and track the “multitude” of permits it issues but did not specify how many:

NMDOT has six districts which each administer many of their own district wide permits and the General Office (GO) in Santa Fe also administers some statewide programs, like the Outdoor Advertising Permit Section and all railroad crossing permits. Staffing a central focal processing group to collect and track the multitude of District and GO administered permits would likely require additional FTEs.

ADMINISTRATIVE IMPLICATIONS

HB419 represents a substantial administrative burden for the state and local agencies affected.

NMDOT echoes RLD’s concerns about updating internal systems to meet the provisions of the bill:

A few but not all the NMDOT permitting processes are automated. For example, NMDOT has been preparing and working on going live with an electronic permitting on-line permit process for Utility Accommodation Permits, Access Permits and other Right-of-Way impacted permits. The electronic on-line permit system is expected to be fully operational in the spring of 2023. Implementing the requirements of HB419 may necessitate changes to the electronic permitting system in order to track the relevant data and generate the reports required under the bill. Otherwise all tracking necessary to implement HB419 will have to be accomplished by hand.

OTHER SUBSTANTIVE ISSUES

HB419 does not contemplate the adverse effects of incomplete applications that are submitted but cannot be processed with additional information and at no fault of the agency. Understanding the percent of incomplete applications that are never supplemented and, therefore, never issued for each agency may be necessary to measure the licensing process and address issues of timeliness.

ALTERNATIVES

The Department of Transportation suggested amending the bill to exclude all permits, licenses, or “permissions” currently covered by New Mexico Administrative Code rules, which already provide for both procedural and substantive due processes to aggrieved permit applicants.

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