

LFC Requester:	Sanchez, Scott
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 2/1/24
Bill No: HB 309

Sponsor: Rep. James G. Townsend
Short Emergency Order Exemptions
Title: _____

Agency Name and Code AOC 218
Number: _____
Person Writing Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 309 amends and enacts statutory sections within the All Hazard Emergency Management Act, Section 12-10-1 NMSA 1978 et. seq., Riot Control Act, Section 12-10-16 to 12-10-21 NMSA 1978, Public Health Emergency Response Act, Section 12-10A-1 NMSA 1978 et. seq., and the Energy Emergency Powers Act, Section 12-12-1 NMSA 1978 et. seq., to require an order rule or other directive issued by a governmental entity pursuant to the respective acts to close or limit businesses or facilities otherwise open to public use or patronage that includes exemptions in whole or in part for some businesses or facilities to include exemptions for facilities operated by a religious organization that is exempt from taxation pursuant to Section 501(c)(3) of the Federal Internal Revenue Code of 1986 as a place of worship to the same extent as the most permissive exemption provided by the order, rule or other directive.

HB 309 provides, for each act mentioned above, that a person or entity alleging harm due to a violation may seek declaratory or injunctive relief or money damages. Upon a showing of malicious application or reckless enforcement of an order by a violator, a court may also award punitive damages.

The effective date of the Act is July 1, 2024.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and any actions seeking declaratory or injunctive relief or money damages, including punitive damages, as well as any challenges to the constitutionality of the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) The American Atheists organization has created a map detailing state positions on religious exemptions to public health orders at <https://states.atheists.org/issue-map/religious-exemptions-to-public-health-protections>. That organization’s position is that these exemptions risk public health and safety, including members’, “in order to privilege certain religious beliefs.” See also, *27 Denominations and Religious Organizations Release Statement Opposing Exemptions to Emergency Orders*, Interfaith

Alliance at <https://interfaithalliance.org/27-religious-orgs-release-statement-opposing-exemptions-to-emergency-orders/>.

In Wisconsin, a proposed constitutional amendment would exempt houses of worship from emergency orders. See *Houses of worship would be exempt from emergency orders under proposed constitutional amendment*, Anya Van Wagtendonk, August 7, 2023 at <https://www.wpr.org/politics/houses-worship-exempt-emergency-orders-proposed-constitutional-amendment-wisconsin-legislature>.

- 2) For a discussion of the legal background related to banning religious assemblies in an emergency, including First Amendment concerns and cases, and bans against gathering, see *Update: Banning Religious Assemblies to Stop the Spread of COVID-19*, June 2020, Congressional Research Service at <https://crsreports.congress.gov/product/pdf/LSB/LSB10450>.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS