

<b>LFC Requester:</b>	
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**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.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}*

**Date Prepared:** 01.21.26 *Check all that apply:*  
**Bill Number:** H 71 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rod Montoya **Agency Name and Code** 218 / AOC  
**Short** County and Municipality **Number:** \_\_\_\_\_  
**Title:** Ordinance Enforcement **Person Writing** Cynthia Pacheco  
**Phone:** 505-470-8795 **Email** aocclp@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	0	500-1,000	500-1,000	1,500-3,000	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

Synopsis: House Bill 71 creates a new section of law allowing residents, businesses located within a county or municipality, or the Attorney General to provide written notice to a local governing body alleging failure to enforce an enacted ordinance. The local government has 14 days to enforce the ordinance or provide a written response explaining why the alleged conduct does not violate the ordinance or why enforcement was not pursued. If enforcement does not occur after this process, the notifier may file a civil action in district court seeking injunctive relief to compel the county or municipality to enforce or repeal the ordinance. Courts may award reasonable attorney fees and costs to prevailing residents or businesses. The bill takes effect July 1, 2026.

### **FISCAL IMPLICATIONS**

The bill has no direct appropriations but could indirectly increase operating costs for the judiciary due to an anticipated rise in civil actions filed in district courts. These actions would involve injunctive relief requests against local governments, potentially adding to caseloads in already burdened districts.

Estimates of additional costs are indeterminate without data on the volume of potential lawsuits, but the judiciary anticipates 10-50 new cases per year per jurisdiction, depending on the size of the district. This could require additional judicial resources, including judges, staff, and court operations, ranging from \$500 thousand to \$2 million annually statewide starting in FY27, assuming moderate uptake. Costs could be higher in urban districts like Bernalillo or Dona Ana Counties, where ordinance disputes are more common.

The provision for courts to award attorney fees and costs to prevailing plaintiffs (residents or businesses) does not directly impact judicial budgets but could incentivize more filings, amplifying caseload pressures. No fiscal impact on defendants (local governments) is assessed here, as this report focuses on judiciary implications.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

### **SIGNIFICANT ISSUES**

This bill introduces a new private right of action that could strain district court resources by shifting enforcement disputes from administrative or political arenas to judicial proceedings. Courts may face challenges in determining what constitutes a “failure to enforce” an ordinance, potentially leading to inconsistent rulings across districts and appeals to higher courts. From a separation of powers perspective, compelling local executives to enforce ordinances via injunction raises concerns about judicial overreach into discretionary enforcement decisions, which are typically executive functions. This could invite constitutional challenges under Article III, Section 1 of the New Mexico Constitution, regarding the judiciary’s role in policy implementation, increasing the workload of the appellate courts.

Additionally, the bill may encourage frivolous or politically motivated suits, as the low barrier

(written notice) and potential fee awards could attract filings without strong merit, further burdening courts. Rural districts with limited staff may be disproportionately affected if cases involve complex local ordinances.

### **PERFORMANCE IMPLICATIONS**

Increased caseloads could delay resolution times for other civil matters, impacting performance metrics like case clearance rates tracked by the AOC. Districts meeting or exceeding 90 percent clearance targets might fall below if ordinance enforcement cases rise significantly, potentially requiring reallocation of resources from criminal or family dockets.

### **ADMINISTRATIVE IMPLICATIONS**

District courts would need to handle new filings, including scheduling hearings for injunctive relief, which often require expedited processes. This could necessitate additional training for judges and clerks on interpreting local ordinances and enforcement standards. AOC may need to develop guidelines or track these cases separately to monitor statewide impacts. No new IT systems are anticipated, but existing case management tools could see higher usage.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

No direct conflicts or duplications identified with current 2026 session bills. Relates to existing statutes on local government powers found in New Mexico Statutes Annotated, Chapter 3 by adding enforcement mechanisms.

### **TECHNICAL ISSUES**

The bill's language is vague on what qualifies as a "failure to enforce," potentially leading to disputes over standing or ripeness. Clarification on whether multiple notices for the same alleged failure are allowed could prevent duplicative suits. The 14-day response period may be insufficient for complex investigations, leading to premature litigation.

### **OTHER SUBSTANTIVE ISSUES**

The inclusion of the Attorney General as a potential plaintiff could politicize local enforcement, drawing state-level involvement into municipal matters and increasing case complexity. Courts may need to balance this with sovereign immunity considerations for local entities.

### **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

### **AMENDMENTS**

Amend to cap attorney fee awards or require a showing of bad faith to deter frivolous suits. Add a provision for courts to dismiss cases summarily if the government's response adequately justifies non-enforcement.