

LFC Requester:	Mercer-Garcia
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**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.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 2/10/2025
Bill No: SB 253

Sponsor: <u>Sharer, Munoz</u>	Agency Name and Code <u>Commission of Public Records</u>
Short Title: <u>PROHIBIT CERTAIN AGENCY RULES</u>	Number: <u>36900</u>
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	n/a	
0	0		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	n/a	

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	n/a	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

State Rules Act, Section 14-4-1 et seq., NMSA 1978 (“Rules Act”).

HB 230 INTERIM ADMIN. RULES OVERSIGHT COMMITTEE

HB 231 RULEMAKING INFO TO LEGISLATORS

SB 258 FISCAL IMPACT REPORTS FOR RULES

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 253 (“bill”) would prohibit rule adoption from an agency that causes a negative fiscal impact to the general fund. The bill would also require a notice of rulemaking to include a prior legislative appropriation and also include a fiscal analysis of any proposed rule.

Section 1 amends Section 14-4-5 NMSA 1978 to include a new subsection C that would not allow an agency to adopt a rule that causes a negative fiscal impact on the general fund, other state funds or state revenue: (1) without prior legislative appropriation for purpose for which rule is proposed, or (2) greater than a prior legislative appropriation for purpose for which the rule is proposed.

Section 2 amends Section 14-4-5.2 NMSA 1978 to, in addition to including a specific legal authority in the notice of rulemaking, include a prior legislative appropriation. It also includes a requirement that a fiscal analysis of the proposed rule’s impact on the general fund, other state funds and state revenue to be included in the proposed notice.

FISCAL IMPLICATIONS

As a rule-filing agency, for SRCA (and all rule filing agencies), the potential impact of requiring a ‘fiscal analysis of impact on general fund or other state funds/revenue’ could be significant. Because fiscal analysis is not defined, and is thereby vague and broad, any rule filing agency could be severely compromised by the added bureaucratic layers and the delay necessitated by the increase in administrative review to determine the effect of any proposed rule on state funds. Again, because fiscal analysis is overbroad, it is impossible to quantify the cost of complying with this new requirement.

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

See also, Fiscal Implications section above.

The requirement in Section 1 that a rule can only be adopted if there is no impact could delay and obstruct a rule filing agency from conducting rulemaking. Additionally, it is not entirely clear whether these requirements apply to only completely new rules or amendments of existing rules as well. Would these requirements also apply to existing rules that require amendment? Would agencies be limited from pursuing amending its rules in the ordinary course of business without first going through the legislative process? Would the legislative process be capable of entering into a proto-rulemaking process in order to ‘authorize’ a legislative appropriation for pent-up rulemaking that have to be stalled in order to comport with the requirements outlined in Section 1? These questions arise from the practical limitations on rulemaking of this bill.

PERFORMANCE IMPLICATIONS

See, Significant Issues above. None expected for this agency.

ADMINISTRATIVE IMPLICATIONS

See, Significant Issues above. None expected for this agency.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

See, Significant Issues above.

TECHNICAL ISSUES

See, Significant Issues above.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS