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FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 146

SHORT TITLE: Civil Rights Act Claim Changes

SPONSOR: Muñoz

LAST ORIGINAL
UPDATE: _____ **DATE:** 02/10/2026 **ANALYST:** Jacobs

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
WSD	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	Recurring	General Fund
Public Liability Fund	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	Recurring	General Fund
Total	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	See "Fiscal Implications"	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

- Agency or Agencies Providing Analysis
- Administrative Office of the Courts (AOC)
- New Mexico Counties (NMC)
- State Ethics Commission (SEC)
- General Services Department (GSD)
- Workforce Solutions Department (WSD)

SUMMARY

Synopsis of Senate Bill 146

Senate Bill 146 (SB146) would amend the New Mexico Civil Rights Act to increase the legal standard for a claim under the act. SB146 aligns penalties under the Civil Rights Act with the Tort Claims Act and explicitly bars double recovery for the same occurrence. The bill would create an exception for claims of qualified immunity if the public party “had an objectively good faith belief that the conduct at issue did not violate the law.” Finally, SB146 would require notice of any claims under the act be provided to the public party within 90 days of the occurrence, with some exceptions.

State law currently caps damages claims under the Civil Rights Act at \$2 million per claimant.

SB146 would replace this limit with the caps enumerated in the Tort Claims Act: \$200 thousand for legally described real property damage or destruction, \$300 thousand for medical expenses, and \$400 thousand for all other types of damages. The total liability for all claims from a single occurrence would be capped at \$750 thousand. SB146 would also prohibit awards for exemplary or punitive damages or for interest prior to judgement. Interest, accruing at two percent above the prime rate as published in the *Wall Street Journal*, can be computed from the date of entry of the judgement.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

The General Services Department (GSD) reports a lower recovery cap for Civil Rights Act claims would result in fewer shock losses to the public liability fund. The fund helps to provide coverage to causes of action arising from specific statutes, including the Tort Claims Act and the Civil Rights Act. As of January 2026, the fund balance was \$38 million. Certificates of coverage only apply to specific risks, so the rate costs are shouldered by agencies that deem themselves liable to those risks. SB146 would reduce the burden on both the public liability fund and the agencies that pay into it to help cover actions under the Civil Rights Act.

The Workforce Solutions Department (WSD) reports that narrowing the agency’s legal exposure could eventually result in reduced rate payments. SB146 would also reduce the frequency of and burden from judgements exempted from coverage through the public liability fund. WSD projects positive fiscal and performance impacts resulting from this redirection of the agency’s resources and the bill’s administrative changes.

SIGNIFICANT ISSUES

The Administrative Office of the Courts (AOC) reports government agencies will have an easier time with risk analysis if SB146 were to pass. Reconciling sanctions with the Tort Claims Act would allow agencies to consult one set of numbers instead of two. Prohibiting double recoveries would also reduce redundancy and alleviate the agency workload.

The State Ethics Commission (SEC) provides the following on qualified immunity:

The exception permitting a qualified immunity defense if the government actor “had an objectively good faith belief that the conduct at issue did not violate the law” is unclear. Typically, the defense of qualified immunity applies so long as the government actor’s conduct “does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Mullenix v. Luna*, 577 U.S. 7, 11 (2015) (citing *Pearson v. Callahan*, 555 U.S. 223, 231 (2009)). In evaluating whether the right is “clearly established,” courts look toward “whether the contours of the right were ‘sufficiently clear that a reasonable person would [have understood] that what he is doing is violating the right,’” *id.* (quoting *Saucier v. Katz*, 533 U.S. 19, 201 (2001), and whether the government actor had “fair notice” that they are acting unconstitutionally. *Id.* (citing *Hope v. Pelzer*, 536 U.S. 730, 739 (2002)). To put another way, if the government actor could not have reasonably known that their actions were unconstitutional, they are entitled to a qualified immunity defense. SB146 “objectively good faith belief” language

likely produces a more demanding, but similar test. To be availed of a qualified immunity defense, the government actor must be able to point to the law, statute, or practice that justifies their actions.

SEC provides the following on interest calculations:

Interest accruing on damage calculations does not trigger scrutiny under the Anti-Donation Clause. Compensating an individual for losses caused by the government are not considered “donations.” See *Battaglini v. Town of Red River*, 1983-NMSC-067, ¶ 10. The accrual of interest goes to justly compensating an individual injured by the government, and likely falls within this consideration.

SEC provides the following on notice provisions:

Requiring that notice be given before a court has jurisdiction over a potential claim is, further, protective of state agencies, and allows an opportunity to discuss prelitigation settlement before getting the courts involved. However, the notice provision in section 7 appears a little harsh for an injured claimant. Allowing a claimant only 90 days to recover from an injury before the 90-day notice period may not be adequate. If a claimant is injured so severely that they are unable to notice a claim 180 days after receiving the injury, they likely have large medical bills that are now unrecoverable through the CRA (though potentially still recoverable through the Torts Claims Act).

ADMINISTRATIVE IMPLICATIONS

WSD provides:

Uniform notice requirements and a shorter statute of limitations allow agencies to receive claims earlier, investigate promptly—while making reasonable allowances for incapacitated or injured persons— and preserve relevant evidence. Agencies may need to update internal procedures for receiving and tracking CRA claim notices. However, such changes are modest and outweighed by improvements to claims management, budgeting, and risk assessment.

HJ/cf/ct