

**NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.**

**Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.**

## FISCAL IMPACT REPORT

SPONSOR: Griego DATE TYPED: 03/01/01 HB \_\_\_\_\_  
 SHORT TITLE: Implement Ergonomic Claims Procedures SB 791  
 ANALYST: Carrillo

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 2,100.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SOURCES OF INFORMATION**

Public School Insurance Authority

### **SUMMARY**

#### Synopsis of Bill

Senate Bill 791 appropriates \$2.1 million from the general fund to the Public School Insurance Authority for training expenses to comply with training requirements to implement claims procedures for ergonomic claims pursuant to federal workplace requirements (OSHA CFR Part 1910 of Title 29 - Ergonomics Programs).

The bill contains a reversion clause.

#### Significant Issues

According to PSIA staff:

The bill will allow PSIA to provide the services required by the Statute Amendment, services not currently provided by any other agency. The OSHA change requires districts to provide ergonomics training within 14 days of hire. A professional ergonomics or safety professional must provide the training. It further requires that the training be repeated for all employees every three years. The Amendment also requires in-depth training and administrative processes for employees who have an ergonomics claim.

Claim administration and costs are outside the current Workers' Compensation and NM State OSHA provisions. Further the penalties for non-compliance range from \$5,000 to \$70,000 per

violation. PSIA estimates that 2/3 of the member districts will be required to provide medical treatment and work place engineering for individuals with a musculoskeletal disorders (MSD). Failure to comply with the requirements may also lead to increases in litigation cost. Current analysis indicates that claims filed would be outside of the exclusive remedy clause of Workers' Compensation.

The cross over between tort liability and exclusive remedy has not been solved. The requirements for the ergonomics program and payment of wages are required under OSHA separate and apart from payments and benefits provided under Workers Compensation. Governmental agencies that are currently exempted from OSHA fines will not be exempted from Ergonomic Program fines.

### **PERFORMANCE IMPLICATIONS**

PSIA indicates neither they nor its member districts are providing MSD related programs to the extent required by the Statue Amendment. PSIA will provide the services required in the Statute and meet the deadlines and performance measures required under the Amendment. These include statewide training for current employees within seven months, ongoing training for new employees, MSD case management, ergonomic council development and maintenance and reduction of MSD related claims.

### **FISCAL IMPLICATIONS**

The appropriation of \$2.1 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY02 shall revert to the general fund.

### **ADMINISTRATIVE IMPLICATIONS**

PSIA will contract with an outside agency to perform these services. Contract oversight will not affect current PSIA FTEs. The bill will provide services through PSIA rather than expenditures being born by member districts. Current contractors will be required to coordinate services with the ergonomics contractor for payment of benefits and execution of services.

WJC/prr