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FISCAL IMPACT REPORT

SPONSOR: King DATE TYPED: 2/24/03 HB 615

SHORT TITLE: Body Art Safe Practices Act SB _____

ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$140.0 See Narrative		GF/OSF

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	Indeterminate		Recurring	OSF

(Parenthesis () Indicate Revenue Decreases)

Relates to: HB 480

SOURCES OF INFORMATION

Responses Received From
Department of Health (DOH)

SUMMARY

Synopsis of Bill

HB bill 615 provides for the licensure of body art establishments. The bill establishes a new fund, the Body Art Safe Practices Fund, and a \$150 licensing fee.

Significant Issues

The practices of tattooing, body piercing, and scarification are largely unregulated in the State of New Mexico. Transmission of infectious diseases by potential contamination of equipment used for these practices is a legitimate public health concern. Epidemiologic research has established not only biologic plausibility but also some survey-based evidence that blood borne pathogens such as hepatitis B and C viruses are likely transmitted through contaminated body art equipment. Tattooing and body piercing are similar to certain medical and dental procedures that involve penetrating body tissues with foreign bodies, thereby potentially introducing infectious agents. Because medical and dental procedures are regulated in order to reduce the risk of acquisition of infectious diseases, it is appropriate that body art procedures should be regulated similarly.

As written, this bill could not be administered by the Division of Health Improvement's Health Facility Licensing and Certification Bureau (DHI/HFL&C). The bill assumes the \$150 licensure fees and renewal fees can fund the prescribed activities. However, the current HFL&C staff is not sufficient in numbers to take on these duties. In addition, funding would be needed for the process of identifying body art establishments, determining surveyor workload and establishing regulations and training surveyors. It is unknown whether a \$150 licensure fee would be sufficient to maintain such a program after initial start-up.

Lastly, HFL&C is able to impose sanctions including civil monetary penalties necessary to enforce its regulations. This bill provides for DOH to impose penalties through District Court. DOH specifies that this is not a practical or cost effective approach to affecting the operations of non-compliant body art establishments. The \$500 civil monetary penalty is insufficient to impact egregious licensure violations. DOH notes that the ability of body art establishments to appeal Department findings to district court is also not practical.

FISCAL IMPLICATIONS

Although HB 615 states that it makes an appropriation, there is no appropriation specified. HB 615 would establish a Body Art Safe Practices Fund in the state treasury that includes the deposit of license fees, charges and fines. Whereas it is conceivable that some program activities could be maintained by this fund, no resources are made available through the bill to establish the program.

HFL&C currently licenses diagnostic and treatment centers. On average, one surveyor can survey one and one half centers a week, including write up of findings. The number of body art establishments is unknown. Approximately 25-30 body art establishments could be surveyed a year by one surveyor. The number of body art establishments and their locations would determine the total number of surveyors needed. However, that figure is currently unknown. When employee benefits and qualified personnel such as nurses are considered, the department estimates \$60,000 or more per surveyor FTE. In addition, administrative staff of potentially two (2) would be required for the records processing and retention requirements of the act. Those positions should be estimated at \$40,000 per FTE. The total estimated fiscal impact to comply with the requirements of the bill is \$140.0.

ADMINISTRATIVE IMPLICATIONS

DOH indicates that an authorized FTE increase and an appropriation would be required for DOH HFL&C to license body art establishments. Current HFL&C staff is not sufficient in numbers to take on these duties, nor is it trained in the particulars to administer the act. The process of identifying body art establishments, determining surveyor workload, establishing regulations and training surveyors would need an appropriation for the start up alone. Determining a fee structure would require solid information gathering prior to implementing such a program.

RELATIONSHIP

HB615 relates to HB 480. The significant difference in HB615 is the establishment of a \$150 license fee, and an appeal process to District Court by body art establishments aggrieved by Department decisions. The bill also establishes a body art safe practices fund (from collected licensure fees) available to the Department to cover the costs of the licensure process. In addition, HB 615 lacks the parental notification section contained in HB 480.

OTHER SUBSTANTIVE ISSUES

In the case of tattooing and body piercing, foreign bodies are introduced into body tissues that are susceptible to infection. By analogy to medical and dental procedures, it is important that instruments that penetrate susceptible body tissues should be free of materials capable of transmitting infectious diseases. Of particular importance are blood borne viral infections that can establish serious chronic diseases including HIV, hepatitis B and hepatitis C. It is also possible to develop serious bacterial infections as a result of piercing the skin, including Staphylococcal and Streptococcal infections. In some instances, these infections can be life threatening. Although the risk attributable to tattooing in the transmission of hepatitis and HIV infection is not known, there are several lines of evidence that support the plausibility that body art procedures could transmit these infections

Currently the HFL&C Bureau is not permitted to use its licensure fees to support its activities. These fees go to a separate fund not used by DOH. This act would run counter to that practice.

BD/njw