

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR SPAC **ORIGINAL DATE** 02/01/10 **LAST UPDATED** 02/17/10 **HB** _____
SHORT TITLE Hazardous Duty Officers' Employee Relations **SB** 60/SPACS/aSFI#1/aHJC
ANALYST Varela/Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
*NFI	*NFI		

(Parenthesis () Indicate Expenditure Decreases)

*No immediate fiscal impact on the agency but could require additional FTE in the future.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 Department of Public Safety (DPS)
 Attorney General's Office (AGO)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee Amendment to Senate Bill 60 removes Subsection A designation. The Amendment strikes lines 21 through 25 on page 6, which is Subsection B. Lines 1 through 12 on page 7 are also removed entirely.

Synopsis of SFI# 1 Amendment

The Senate Floor Amendment #1 to Senate Bill 60 states that during an interrogation session, there shall not be more than one interrogation session within a twenty-four-hour period instead of two interrogation sessions.

The SFI Amendment #1 also deletes the following language:

The combined duration of the officer's work shift and an interrogation session shall not exceed fourteen hours within a twenty-four-hour period, unless the urgency of the investigation requires otherwise.

Synopsis of Original Bill

The Senate Public Affairs Committee Substitute for Senate Bill 60 removes Section 3 (E) from the original bill which provided for limitations for pursuing certain administrative actions for hazardous duty officers. The SPAC substitute eliminates Section 9 from the original bill which allowed hazardous duty officers to engage in political activity while off duty. The substitute also removes Section 11 pertaining to civil penalties applied to employers who violate the Hazardous Duty Officers' Employer-Employee Relations Act.

The substitute also adds a section for constitutional rights given to the employee under the United States Constitution and the Constitution of New Mexico.

Senate Bill 60 would establish an Employer – Employee Relations Act that relates to public employees and hazardous duty officers. The Act provides procedures for employers and employees to follow in certain administrative actions; provides certain rights to hazardous duty officers in certain circumstances; provides time limitations for pursuing certain administrative actions; and provides for civil penalties.

FISCAL IMPLICATIONS

Senate Bill 60 may increase the cost of licensure investigations performed by the Epidemiology & Response Division (ERD) Emergency Medical Systems (EMS) Bureau of DOH by prolonging the process of investigations of hazardous duty officers.

SIGNIFICANT ISSUES

According to DOH, SB60 could potentially inhibit public employers from investigating Emergency Medical Technicians (EMTs) when necessary, choosing instead to rely on an investigation by the Department of Health's EMS Bureau. This could mean a significant increase in the EMS Bureau's workload.

DOH expresses concern with section 8 on page 8 ("Search of Personal Effects") which would require public employers to get a warrant before they could search a locker or other storage space on the employer's premises. A public employee would never have an expectation of this level of privacy in the workplace, and this requirement would effectively place the interests of private persons (EMTs) above the interests of the public. This section would make it easier for an EMT to destroy evidence of a crime, such as diversion of a controlled substance, before that evidence was discovered by a public employer. To the extent that the EMS Bureau often relies on information gathered by public employers when conducting its investigations, the EMS Bureau's ability to discipline EMTs would also be impaired. DOH notes that the term "storage space" is ambiguous, and could be interpreted to include such items as computers or other electronic storage devices that may contain evidence of crimes which is problematic.

DOH states that section 3, page 2 ("Investigations of Hazardous Duty Officers"), paragraph A, would impose standards for "administrative sanctions" and "interrogations of officers." The section should specify that it refers to interrogations of the officer that are conducted by public employers. As currently written, the language states that if an EMT is under investigation by his employer, DOH/EMS is bound by these interrogation standards. DOH/EMS licensing operations are governed by other statutes.

Line 24 at page 4 contains a requirement that investigations be finished within one year. While there are various exceptions listed, this time requirement is overly restrictive. Furthermore, the time period is more restrictive period than that permitted of the EMS Bureau under the Uniform Licensing Act (ULA) for DOH investigations. The ULA allows the department two years from the date of learning of underlying conduct for the investigation to be completed. The difference in time periods for investigation conflicts with one another. Public employers may rely more on the investigations of the EMS bureau which would place additional strain on the bureau.

DOH notes that if a health emergency is declared, emergency medical technicians of all levels may volunteer for various DOH response activities. During some of these response activities, especially those involving responses to other states and the Federal Emergency Management Assistance Compact Program, the potential exists for these volunteers to become paid, temporary employees of DOH. The provisions in SB60 would then apply to EMS/DOH.

ADMINISTRATIVE IMPLICATIONS

DOH notes that SB60 would increase the workload for the EMS Bureau staff during the licensure investigations.

OTHER SUBSTANTIVE ISSUES

According to the Attorney General's Office, Senate Bill 60 does not state whether hazardous duty officers employed by the state or any political subdivision of the state are covered or exempted from the provisions of the State Personnel Act.

PTV/mt:mew:svb