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FISCAL IMPACT REPORT

ORIGINAL DATE 03/11/11
 SPONSOR HLC LAST UPDATED 03/15/11 HB 538/HLCS
 SHORT TITLE State Government Customer Surveys SB _____
 ANALYST Soderquist

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Personnel Office (SPO)
 Taxation and Revenue Department (TRD)
 New Mexico Livestock Board (NMLB)

No Response Received From

Regulation and Licensing Department (RLD)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

The House Labor & Human Services Committee Substitute for House Bill 538 strikes language proposing that the customer service survey provide a means of identifying the employee with whom the customer has contact and strikes the requirement that the results of the survey be stored in a computer program designed to record results by each employee, which shifts the emphasis of the amendment to measuring and improving employee performance through employee training and development programs. This same language is removed from subsection C in all three sections relating to the three agencies identified for the pilot project; Construction Industries Division of the Regulation and Licensing Department, the Motor Vehicle Division of the Taxation and Revenue Department and the New Mexico Livestock Board.

FISCAL IMPLICATIONS

There is no appropriation contained in HB538. All responding agencies stated there would be additional operating costs involved in the implementation of the legislation. Specifically, there

would likely be an additional one-time cost to purchase, and additional recurring costs to maintain, an automated program telephone response system. If the contact is in-person the bill requires that a person be able to fill out a paper survey or a digital survey. To complete a digital survey at the location of the service a kiosk with a computer would need to be provided at each location. There would likely be additional personnel costs to hire staff to maintain an automated system and enter paper survey responses into an electronic database. An electronic database may need to be purchased or developed and maintained. If this service was outsourced there may be additional start-up and recurring costs that must be appropriated to agencies to pay for contracts with service providers.

The Motor Vehicle Department of the Taxation and Revenue Department estimated roughly that additional operating costs would range from \$140,000-150,000 in FY12 and \$140,000-150,000 in FY13. Other responding agencies did not provide equivalent estimates, and as such the fiscal impact was left indeterminate.

SIGNIFICANT ISSUES

The response from the State Personnel Office (SPO) stated that this type of program may redirect current limited resources from providing front-line services to taxpayers to providing administrative monitoring services.

State Personnel Board (SPB) Rule 1.7.13.13 NMAC currently provides for demonstration projects to improve operations. As such, a mechanism already exists for the Executive to initiate a customer service program if so directed by the Legislature.

Like HB538, the Committee Substitute does not provide standards establishing the subject matter for the survey or any standards for evaluating and applying the data in an evaluation. The legislation provides that a survey shall contain questions or solicit responses that the Director deems appropriate to result in a reasonable appraisal of an employee's performance. It is not certain that the two Directors and the Secretary referenced in the legislation will be experts in survey methodology and as such may not have the knowledge, skills and ability to develop valid and reliable questions that are clear, non-leading and unbiased. This task may therefore require additional expert input from qualified state employees or external service providers.

Employee performance appraisals are covered under SPB Rule 1.7.9 NMAC, and are a personnel administrative activity overseen by the SPB under the authority of the Personnel Act, Section 10-9-1 NMSA 1978. The proposed legislation allows for additional input from the employees peer's, customers, subordinates or other appropriate personnel when appropriate. Like the original legislation, the Committee Substitute to HB538 requires that the survey responses to be anonymous from a person that did business with the employee. However, such information gathered through surveys could reflect personal opinion, ongoing bias, or emotional reactions to situations, resulting in possibly incomplete, inaccurate, non-factual information that will not effectively contribute to employee training and development.

One example of potentially inappropriate use of survey results addressed the Livestock Board and the Construction Industries Division. Both are regulatory oversight agencies that either pass or fail the subject of their evaluation. If a CID inspector did not certify a building due to numerous code violations, a disgruntled contractor could complete a survey with negative information that could have an impact on the inspector's employment, while in reality the

building inspector performed the duties of their job as required.

Although the Committee Substitute to HB538 deletes specific reference to employee evaluation, given current language it is still likely that the survey could be used by an agency for the purposes of evaluation. Currently an employee may exercise their right to appeal an action taken by the agency for purposes of dismissal, demotion or suspension under the provisions of the Personnel Act. HB538 may possibly infringe on employees rights under the Personnel Act. If disciplinary action was taken on an employee based solely upon survey results, an agency would have the obligation, pursuant to SPB Rule 1.7.11.13, to inform the employee of the conduct, action or omissions that form the basis for the disciplinary action and give the employee the opportunity to inspect all documentary evidence relied upon by the agency. Any action that was not supported by substantial evidence or was based on arbitrary, anonymous complaints may increase an agency's liability; resulting in reinstatement, back-pay and court costs.

PERFORMANCE IMPLICATIONS

Most agency respondents stated concern that without additional appropriations this type of program may redirect current limited resources from providing front-line services to taxpayers to providing administrative monitoring services. This would potentially affect agency performance.

ADMINISTRATIVE IMPLICATIONS

Additional agency staff may need to be reassigned or hired in each agency references in the legislation. If the survey is outsourced, external service providers may have to be hired to coordinate each agencies customer survey program.

There may be an impact to the State Personnel Office (SPO) if its classification and test development specialists are called upon to design and review the validity and reliability of survey questions and to provide program oversight to agencies. Neither SPO nor the Director of SPO is mentioned specifically in the legislation but the agency would almost certainly play a critical role in the implementation of the provisions.

OTHER SUBSTANTIVE ISSUES

None identified by responding agencies.

ALTERNATIVES

None identified by responding agencies.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The survey as proposed in the legislation will not be implemented.

RS/svb:mew