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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/11
 LAST UPDATED 03/05/11 **HB** _____

SPONSOR Wirth

SHORT TITLE Dogs in Certain Outdoor Restaurant Areas **SB** 11/a SJC/aSFI#1

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$5.0	\$5.0	\$10.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Environment Department (ED)

SUMMARY

Synopsis of SFI#1 Amendment

The Senate Floor amendment #1 adds language to the bill specifying the signage requirements that are as follows:

The signs shall be at a minimum eight and one half by eleven inches in size and use type that is uniform in size and no smaller than necessary to fill the sign to within two inches of the borders. The signs shall contain language reasonably designed to inform the public that dogs are permitted and may be present. Signs shall be posted prominently and be easily visible in both the area where dogs are permitted and at the entrance of the establishment. The Environmental Improvement Board shall promulgate by rule the specific language to be included in the signs.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 11 is primarily editorial and makes no substantive changes.

Synopsis of Original Bill

Senate Bill 11 enacts a new section of the Food Service Sanitation Act to allow pet dogs in designated outdoor sections of restaurants.

A food service establishment may allow pet dogs in designated outdoor dining areas of the establishment if the following requirements are met:

- no pet dog shall be allowed in any area where food is prepared;
- patrons shall keep their pet dogs on a leash at all times and keep their pet dogs under reasonable control;
- employees shall wash their hands immediately after touching, petting or otherwise handling pet dogs;
- pet dogs shall not be allowed on chairs, tables or other furnishings;
- accidents involving pet waste shall be cleaned immediately and the area sanitized; and
- a sign shall be posted to place the public on notice that the designated outdoor dining area is available for the use of patrons with pet dogs.

The bill further provides that a food service establishment has discretion to prohibit pet dogs or if it allows dogs, to refuse service to a dog owner who does not comply with the above requirements or if the pet dog is otherwise behaving in a manner that compromises or threatens to compromise the health or safety of any person present in the restaurant.

Section 2 makes technical changes to Section 25-1-4 of the Food Service Sanitation Act to update Section 74-1-9 NMSA 1978 the statutory reference for the duty and authority of the Environmental Improvement Board to promulgate procedural and substantive regulations relating to food service, and adds new language providing that no regulation shall prohibit food service establishments from allowing pet dogs in designated outdoor dining areas.

The effective date of the provisions of this act is July 1, 2011.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase. The fiscal implications on the judiciary will directly follow the amount of litigation that is generated by the amendments, especially if new cases result from incident involving dogs or from altercations between dog owners and restaurant management or other customers. ED will have increased enforcement responsibilities.

SIGNIFICANT ISSUES

ED provided the following:

Allowing dogs in outdoor dining areas would create a risk to public health because of potential cross contamination between diseased dogs and humans. According to the Center for Disease Control, Campylobacter, Giardia, and Salmonella are a few of the dog-carried diseases associated with food and water.

Allowing dogs in dining areas creates the risk of cross-contamination from food service workers, utensils, equipment, cleaning and sanitizing. For example, Giardia can be transmitted through dog fecal matter and, as the bill acknowledges, pet waste in food establishments may result from allowing dogs in eating areas. An additional public health risk allowing dogs in outdoor dining areas is the possibility that a dog will bite or attack another patron or another dog.

ED has been involved in a multi-year effort to obtain Food and Drug Administration (FDA) food safety certifications. The FDA National Model Food Code prohibits animals in food establishments. Allowing dogs in food establishments in New Mexico could jeopardize New Mexico gaining certification.

SB 11 requires dogs to be leashed, employees to wash hands after any contact, and pet waste accidents to be cleaned up immediately. These requirements could be difficult to enforce.

Currently guide dogs and police dogs are permitted in food service establishments.

ADMINISTRATIVE IMPLICATIONS

In order to fulfill the requirements of this bill, ED will be required to petition the Environmental Improvement Board to amend 7.6.2 NMAC, which currently prohibits all animals except guide dogs and police dogs in food service establishments. ED can handle the enforcement provisions of this bill with existing staff as part of ongoing responsibilities.

DW/mew:svb:bym