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FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/11

SPONSOR Ulibarri LAST UPDATED _____ HB _____

SHORT TITLE Rules for License Application Time Frames SB 148

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI	n/a	None

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bill 22

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$5.0	\$2.0		\$7.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Environment Department (NMED)

Public Education Department (PED)

Higher Education Department (HED)

SUMMARY

Synopsis of Bill

Senate Bill 148 would require state agencies that issue licenses to provide each applicant with a specific time frame for the agency's response to the application at the time the applicant submits the application.

Each agency would be required to promulgate rules establishing these time frames. Such rules could provide for mutual extension of any deadline for licensing, and agencies would be required to consider the complexity of the licensing process for each type of license, and the economic impact of delay in the issuance of a license.

FISCAL IMPLICATIONS

The Regulation and Licensing Department estimates it would cost several thousand dollars to publish the public notice and the rule itself in the New Mexico Register. There will be added costs for any court reporter expenses and other expenses associated with rulemakings. It will also cost the Department hundreds of hours of staff time to accomplish the task of assisting the boards and commission with the promulgation of time frames for license issuance.

SIGNIFICANT ISSUES

The PED shared the following concerns about the bill:

Senate Bill 148 would require the PED to meet certain self-imposed deadlines for processing and issuing licenses. In determining those deadlines, the PED would need to consider the workloads of the Professional Licensure Bureau and the Educator Ethics Bureau, the time required for obtaining an applicant's fingerprints and FBI record, and the time requirements of a possible ethics investigation on an applicant. Regarding a possible investigation, the PED rule might provide for a longer time frame where an ethics investigation is required due to information obtained from the applicant, a school district, or other reliable sources. PED would require that all submitted applications be complete before a response with a specific timeframe could be provided.

This bill could result in improved transparency and accountability. However, due to the volume of educational licensure applications and licensure application renewals received each week, it would be difficult for the PED to set in rule mandatory processing deadlines.

The RLD also reported on the possible effect of the bill.

Most of the Regulation and Licensing Department's boards and commission do not have established time lines in statute or rule in which to make a decision on a license application. However, the Department does have a statutorily required Performance Measure that requires that decisions be made within 3-5 days after a complete application is received. The key for the Regulation and Licensing Department is that the licensing application must be complete prior to any action being taken.

The Department oversees over 33 boards and commissions. It will be difficult to promulgate rules with time frames by July 1, 2011 for all of the licensing actions taken by these boards and commissions. In the short term, the Department will have to put most of its resources towards this effort. Most of the boards and commissions are volunteers that only meet periodically. The short time frame to promulgate the rules will require these volunteers to meet several times to accomplish the July 1, 2011 deadline.

The NMED comments that based on a consideration of past and current permit processes, the most predictive factor for the successful completion of a timely permitting or registration process is the initial submission quality of the application to an agency, and the technical competency of the consultant or person preparing the application. The second factor affecting timely completion is the timeliness and quality of the applicant's response to requests for missing or required information. If applicant time-frames are not specified along with agency time-frames, and a specified number of allowed applicant revisions are not also included in Rules contemplated under Senate Bill 148, the permit or registration processes will not be able to increase in speed. For example, the Solid Waste Bureau promulgated permitting time-frame rules 20.9.3.17 NMAC

Permit Application Review in 2007. These Rules mandate time-frames for both the Department and the applicant, and applicants are allowed two chances to provide an administratively complete permit package. The use of this Rule has reduced the average permit period from more than three years including a public hearing to 18 months.

NMHED reports that under the Private and Proprietary Schools (PPS) Division issues licenses to private postsecondary institutions and career schools, registrations to out-of-state institutions, exemption registrations, agent authorizations related to out-of state institutions, and program approvals. NMHED currently employs only one FTE for the statutory oversight responsibilities of private and proprietary schools. NMHED would generally support the establishment of specific time frames for response to license applications; however, due to limited resources, hiring freezes, and budget constraints establishing and implementing ideal response time frames in rule may not be feasible at this time.

PERFORMANCE IMPLICATIONS

The PED notes that this bill does not implement or support the PED's core performance measures and benchmarks.

The Regulation and Licensing Department claims that if the bill is adopted they will need to put a lot of resources behind rulemaking for the boards and commissions it oversees. These resources will be pulled from other areas and the agency's performance will be affected.

ADMINISTRATIVE IMPLICATIONS

All of the agencies that prepared an FIR on Senate Bill 148 indicated that it will be hard if not impossible to have specific time frame rules in place by July 1, 2011. Staff will be doing nothing but drafting rules, publishing public notices and assisting the boards and commissions with promulgating the rules.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 156 is related Senate Bill 22 which would require a "regulatory impact statement" by agencies who intend to promulgate rules.

OTHER SUBSTANTIVE ISSUES

According to the New Mexico Environment Department, permit applications can be very complex and include sophisticated modeling, engineering plans and specifications, detailed siting or geology and hydrology studies, as well as financial audits and other fiscal documents. For example, landfill applications typically consist of three to seven 3" binders and engineering plans. It takes many hours to review the submittals, verify and run simulation models based on the data provided and check equations to assure adequacy of the required elements. Inadequate or cursory reviews due to expedited permit reviews contemplated under Senate Bill 148 may result in system failures and potential risks to human health, environment and quality of life in New Mexico.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The RLD comments that they will continue to issue licenses within 3-5 of receiving a complete application.