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FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/13

SPONSOR Garcia, R. LAST UPDATED _____ HB 577

SHORT TITLE Publication of Legal Notices SB _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	(Indeterminate)*	(Indeterminate)*	(Indeterminate)*	Recurring	General Fund and other state funds

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Department of Finance and Administration (DFA)
 New Mexico Finance Authority (NMFA)
 Regulation & Licensing Department (RLD)
 Public Regulation Commission (PRC)
 Energy, Minerals and Natural Resources Department (EMNRD)
 State Land Office (SLO)
 Office of the State Engineer (OSE)
 New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Bill 577 (HB 577) expands the avenues for publication of legal notices from only newspapers (under existing law) to include a website controlled and maintained by a New Mexico nonprofit association, and federal communications commission-licensed full-power radio and television stations. The member radio and television stations must announce once a day that the site contains legal notices and advertisements. Those stations must maintain an archive of notices and advertisements for at least seven years.

FISCAL IMPLICATIONS

Responding agencies all express the opinion that publication on websites rather than in newspapers will save money, but none are able to predict the amount of that saving without knowing what charges might be imposed for publishing in that manner.

SIGNIFICANT ISSUES

Agencies that could take advantage of publishing on an authorized website under HB 577 recognize the advantages, including lower costs and more widespread accessibility. The New Mexico Environment Department (NMED), for example, is required to publish solid waste permit applications in a newspaper of general publication in each county where the facility is to be constructed, operated or closed, notes that as web-based resources have expanded as a source of information and newspapers have declined, it has become difficult in some counties to identify a newspaper satisfying statutory requirements. One disadvantage to a website publication, however, may be that some New Mexicans, including disadvantaged or rural residents, may lack the ability to access an electronic legal notice or advertisement.

Further, it is not clear why HB 577 does not allow agencies to publish on websites more generally, including online editions of local newspapers and in particular those administered by the State, such as the Sunshine Portal administered by the Department of Information Technology (DoIT). Publishing procurement, meeting and rule notices on that site could offer additional savings and transparency. If the purpose of HB 577 is to provide electronic notice that is reasonably calculated under all the circumstances to apprise interested parties of an approaching action by a state agency, then the bill may not provide the best means of accomplishing that objective.

ADMINISTRATIVE IMPLICATIONS

No agency anticipates any difficulty in implementing this bill, particularly because publishing on an authorized website is permissive under HB 577.

OTHER SUBSTANTIVE ISSUES

Two agencies call attention to requirements specific to each agency that would prevent web-based legal notices: the State Land Office (SLO) must, pursuant to Section 10 of the State's Enabling Act, advertise in certain newspapers any sale or lease of public lands. And notices under the Solid Waste Act must be published in two different sections of a newspaper that meets the requirements of that statute. See Section 74-9-22(C), NMSA 1978.

MD/svb