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FISCAL IMPACT REPORT

ORIGINAL DATE 03/06/13
 LAST UPDATED 03/11/13 HCR 1

SPONSOR Bratton

SHORT TITLE Disclosure of Legislative Information SB _____

ANALYST Soderquist

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Concurrent Resolution 1 proposes a new joint rule be adopted by the Legislature placing the Legislative Council Service (LCS) at the nexus of all efforts of receiving and responding to Inspection of Public Record Act (IPRA) requests. The proposed joint rule establishes the directors of the Legislative Education Study Committee (LESC), the Legislative Finance Committee (LFC), the chief clerks of the House and Senate, and the employees of the House and Senate shall cooperate with the LCS to ensure that IPRA requests are fulfilled in compliance with the IPRA statute and adhere to the practices of the LCS regarding the disclosure of information. Finally, the proposed joint rule provides that members of the House and Senate exercise authority collectively and not through the actions of individual members and establishes that sessions of the House and Senate and their committees shall be public and can be webcast pursuant to House and Senate Rules. The joint rule states that the privileges and immunities afforded by Article 4, Section 13 of the constitution of New Mexico apply to information possessed by a legislator, legislative aide, or employee.

FISCAL IMPLICATIONS

No fiscal implications identified.

SIGNIFICANT ISSUES

The proposed rule clarifies existing guidelines and practices, although there have been instances when IPRA requests have not been provided to the LCS for examination nor has the LCS coordinated IPRA requests with individual legislators or House and Senate employees.

The response from the Attorney General’s Office (AGO) observes that HCR 1 creates a joint legislative rule and is not a law. Absent an amendment to IPRA or judicial interpretation of IPRA, the fact that the legislature acts collectively and not through the actions of its individual members is probably not sufficient to protect public records held by individual members of the legislature from disclosure under IPRA. Aside from the legislature, there are many public bodies in the state – city councils, county commissions, etc. – that act collectively and not through their individual members. Public records held by the individual members of all public bodies and the employees of those public bodies are subject to disclosure under IPRA. IPRA, by its terms, applies to public records that relate to the “public business” of a public body. See NMSA 1978, Section 14-2-6(F). IPRA does not limit public access only to public records held, maintained or created as a result of a public body’s collective action.

ADMINISTRATIVE IMPLICATIONS

No significant implications identified. More effective procedures for IPRA responses will have to be established at the LCS to fully coordinate the process, so there will be some impact in terms of time commitment.

RS/blm