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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/17
SPONSOR Fajardo/Smith **LAST UPDATED** _____ **HB** 225

SHORT TITLE Live & Archived Public Meeting Webcasts **SB** _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$35.0-50.0		\$35.0-50.0	Nonrecurring	DoIT Operating Fund
		>\$500.0	>\$500.0	>\$1,000.0	Recurring	DoIT Operating Fund
		>\$90.0		>\$90.0	Nonrecurring	Various
			>\$32.4	>\$32.4	Recurring	Various
Total		>\$625.0- 640.0	>\$532.4	>\$1,157.4- 1,172.4		Various

(Parenthesis () Indicate Expenditure Decreases).

Relates to SB 26

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Information Technology (DoIT)
 Commission of Public Records (CPR)
 Energy, Minerals & Natural Resources Department (EMNRD)
 Office of the Attorney General (OAG)
 Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 225 amends the Open Meetings Act to require boards, commissions, administrative adjudicatory bodies and other policymaking bodies conducting public meetings to provide for live and archived video and audio transmission of the meetings via the internet no later than January 1, 2018. Information concerning where to access the live and archived transmissions must be provided in the meeting notice. That access point must be a public access website or a

website available without cost or subscription. The bill exempts municipalities with less than 15,000 in population, counties other than Class A and political subdivisions of the state other than a county or municipality. The bill directs DoIT provide technical support for entities to be able to stream and archive open meetings. Section 1(C) and (G).

HB 225 authorizes DoIT to determine in writing if live video or audio transmission, or both, of a particular public meeting in a particular location at a particular time is financially, technically or logistically impracticable, and if so grant an exemption to the requirements of HB 225. DoIT may also grant a 12 month exemption to these requirements. In that case, the entity granted the exemption must take all reasonable and necessary actions to schedule its public meetings at times and places where live video and audio transmission can occur. There is no exemption for the archiving requirement. Section 1 (D) and (E).

This bill also requires a state public body to produce an electronic media exact copy of the transmission of a public meeting. The copy shall be a public record, and retained and disposed of by the entity producing it in accordance with the Public Records Act. The copy must be posted to the website within 48 hours of the end of the meeting unless that meeting occurs on Friday, Saturday or Sunday. In that case, the copy must be posted to the website by the end of business the following Tuesday.

The effective date of HB 225 is July 1, 2017.

FISCAL IMPLICATIONS

Based on the requirement in Section 1(C) that DoIT provide technical assistance to any board, commission, administrative adjudicatory body or policymaking body, it reports that it would need to dedicate an indefinite amount of staff resources to manage a technical assistance program. Such a program would extend beyond the reach of DoIT's traditional technical support base, as the bill extends that service beyond state government to local public bodies. Also, the bill allows individual solutions to each entity that holds public meetings. In requiring the Department to provide technical assistance to these entities, it is possible that the Department may have to be responsive to heterogeneous technical environments, for which there may not be existing support relationships at the state level. DoIT concludes all of these factors make it difficult to estimate a direct fiscal impact to the Department, beyond the anticipation of needing to hire additional FTEs and accommodating potential travel costs. Since DoIT's budget is over 98 percent enterprise-funded, such a technical assistance program would either need to be funded separately, or would be amortized across the rates that DoIT charges for its enterprise IT services.

DoIT explains that because it understands the importance of transparency and fully supports transparency in government at all levels, DoIT proposes several amendments (see AMENDMENTS below) which provide for an alternative arrangement in which the Department could establish a web-streaming enterprise service, available via a central website that would cover government at the state level. It estimates that the total annual cost to provide such a service would be approximately \$500K per year minus startup and design costs associated with a new web page. The new web page would add an estimated \$35-50,000. There would also be recurring storage costs for the large volumes of data that are required for HD video and sound. Again, under its proposed amendments, these costs would be amortized across each participating agency through the use of enterprise rates. It is these figures that are reflected in the operating

budget impact table above. Because, however, as explained earlier in this section, DoIT costs to implement the technical assistance program as required in HB 155 as drafted appear to be higher, the “>” sign appears in that table to represent those unknown but significant costs.

Additionally, two agencies provide examples of HB 225’s fiscal impact on their operating budgets. EMNRD states it would need to purchase and install a permanent camera and audio system in Porter Hall at the Wendell Chino Building in Santa Fe, where a majority of the over 60 EMNRD public meetings/hearings are held each year. It states the cost for this system will be no less than \$35 thousand. Additionally, EMNRD would need to contract with an on-line hosting company; if it selects an on-line hosting company like the one the Legislature uses, Sliq., the cost would be around \$5 thousand annually. RLD reports it obtained an estimate from that same company for live streaming services for open meetings conducted by its divisions, boards and commissions that totals nearly \$80 thousand to implement a technologically advanced webcasting service (initial software costs of approximately \$50 thousand; a 15 percent (\$7.5 thousand) annual software maintenance cost; and a \$20.4 thousand annual support charge). The combined total of both agencies’ estimates appear in the operating budget table, preceded by the “>” sign to signify additional costs that other state agencies are likely to incur in complying with HB 225.

SIGNIFICANT ISSUES

CPR first comments that this bill recognizes that information regarding government affairs is important. Audio and video recordings created by public bodies in connection with public business are public records. Providing access to the records in a timely manner is necessary. However, CPR expresses concern about the difficulties public bodies will encounter in implementing and maintaining the systems required by HB 225 without any funding. It advises that media files, particularly moving images, will quickly fill servers and will require dedicated funding to continuously acquire additional space. If the records are deemed permanent per record retention requirements it may adopt, even more funding will be required every forthcoming fiscal year in order to provide for the adequate preservation of these records, as well as staff members with the technical expertise to manage them.

Under DoIT’s proposal discussed in the Fiscal Implications Section, it would centralize the costs of streaming and storing meetings conducted by the State, and could do so at a published monthly rate. For those boards, commissions, and administrative/policymaking bodies at the local and municipal level, the service would also be available at the same rate. Such an approach would: first, reduce the costs of implementing through consolidation, standardization, and the leveraging of an economy of scale; second, reduce the fiscal impact to smaller or less equipped entities; third, significantly reduce redundancy of effort and resources; and fourth, allow a larger, easier, and higher quality implementation for a nominal fee.

ENMRD suggests that requiring boards, commissions, administrative adjudicatory bodies, and policy making bodies of state agencies or institutions to provide a live video and audio transmission of their meetings, or obtain a determination from DOIT that such transmission is technically or logistically impracticable, may cause public bodies to restrict the locations of their meetings. For some agencies, however, that may not be an option. For example, licensing boards and commissions governed by the Uniform Licensing Act must conduct hearings against a licensee in the county in which the licensee resides or in a county in which the acts leading to the complaint occurred. See Section 61-1-6, NMSA 1978. In those instances, an exemption

from DoIT under Section 1(D) likely will be required.

PERFORMANCE IMPLICATIONS

RLD comments it manages a large number of board, commission, and committee meetings each year in different locations across the state. The requirements to stream live, record and provide on-demand access, including to a variety of mobile devices that the public may use if that becomes required, will necessitate a complex system. Looking to the future, it is foreseeable that there may be requests for expanded capabilities of the electronic systems for both live-streaming and on-demand access such as the ability to provide multilingual audio along with closed captions.

RELATIONSHIP

A separate section of the Open Meetings Act governs legislative committee meetings and floor sessions. See Section 10-15-2, NMSA 1978. A separate bill, SB 26, requires the Legislative Council Service to archive and make easily available, for five years, audio and visual recordings of those meetings and sessions on the legislature’s website.

OTHER SUBSTANTIVE ISSUES

CPR advises that providing adequate bandwidth to end users is difficult. Streaming video tends to be problematic due to the high consumption of bandwidth needed to serve multiple constituencies. This problem would be alleviated by streaming the footage at a compression rate lower than 640x480. The allocation of appropriate bandwidth with regard to digital collections is important to ensure public access.

DoIT reports its costs for providing technical assistance and services for the current webcasting service are \$14,500 per year for one agency. In prior years DoIT has looked into other services to do this streaming service on an enterprise level. Based on this research, costs range significantly: the most expensive provides a visual platform as well as automatic archival of video and costs up to \$35 thousand per agency or entity, with the potential for some discount savings due to a volume purchase through negotiation, or \$875 thousand per year for 25 state agencies. This requires less management and personnel resources to implement. A lower end platform, which utilizes a separate site or embedding, costs approximately \$362.5 thousand year for 25 state agencies. There would also be an additional startup cost for incorporation into the Sunshine Portal of approximately \$25 thousand, making the total for this platform an estimated \$387.5 thousand, plus additional, ongoing resources needed for the management and operation.

AMENDMENTS

DoIT proposes these amendments to achieve the alternative it proposes and is discussed in this FIR:

1. Page 2, Line 25, and page 3, lines 1-6 :

“A board, commission, administrative adjudicatory body or other policymaking body conducting a meeting required to be a public meeting open to the public pursuant to Subsection A of this

section shall provide for live and archived video and audio transmission of that public meeting via the internet no later than January 1, 2018.”

2. Page 3, Lines 6-16:

“The department of information technology shall develop, operate and maintain a single internet web site that is free and accessible where the public can access live webcasting. The web site shall provide citizens a central location to view or listen to open meetings conducted by executive state agencies including any department, division, institution, board, bureau, commission or committee, pursuant to this act. The web site operated by the department of information technology for executive state agencies may be part of or linked to the sunshine portal. Non state agencies’ boards, commissions, administrative adjudicatory bodies or other policymaking bodies, may utilize another website, provided the location or uniform resource locator of the internet web site where the live transmission is or will be available shall be provided in the notice of the public meeting required by the Open Meetings Act. Boards, commissions, administrative adjudicatory bodies or other policymaking bodies participating in the central web site operated by the department of information technology shall be charged an equitable share of the yearly costs associated with the operation. ”

DoIT also suggests striking Subsection D.

ALTERNATIVES

DoIT presents another alternative to “live” streaming: encode and record a meeting, then post the recording for download viewing on a website or multiple websites. This approach would greatly reduce the price of viewing a public meeting. An operator at the meeting would simply record the hearing using the equipment located on site. The operator would not need to push the signal to a provider for live streaming.

MD/sb