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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>HB205/HCPACS/aSCORC</u>	Sponsor	<u>HCPAC</u>
Tracking Number	<u>.213326.1</u>	Committee Referrals	<u>HCPAC/HHHC</u>
Short Title	<u>Baby Changing Facilities in Restrooms</u>		
Analyst	<u>Terrazas</u>	Original Date	<u>2/14/19</u>
		Last Updated	<u>3/11/19</u>

BILL SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee Amendment for House Consumer and Public Affairs Committee Substitute for HB205 (HB205/HCPACS/aSCORC) would require drawings, specifications, and other submittal documents for new construction of a place of public accommodation be submitted to an “appropriate authority having jurisdiction” instead of the Construction Industries Division (CID). HB205/HCPACS/aSCORC defines “appropriate authority having jurisdiction” as the state or a municipality, county, or other political subdivision that has a full-service building department employing a full-time certified building official and has permitting, inspection, and enforcement authority over the general construction, electrical, and mechanical-plumbing trades within its jurisdiction. The appropriate authority having jurisdiction would be prohibited from approving drawings and submittal documents unless such drawings and documents comply with the provisions of the bill. Further, a certificate of occupancy cannot be issued for new construction of a place of public accommodation unless it is fully compliant with provisions of the bill.

HB205/HCPACS/aSCORC removes language allowing CID to assess an administrative penalty, not to exceed \$250, for violation of the bill’s provisions or rules adopted in accordance with the bill’s provisions.

Synopsis of Original Bill

The House Consumer and Public Affairs Committee Substitute for HB205 (HB205/HCPACS) would require a place of public accommodation, including a nursery, elementary, secondary, undergraduate or postgraduate school, or other place of education, to provide a baby changing facility in each restroom no later than January 1, 2020. The bill would require a place of public accommodation to provide a baby changing facility when there is construction of a new restroom and to the extent it may be implemented in compliance with local, state, and federal laws regarding access for persons with disabilities and with existing fire, health, and safety standards. HB205/HCPACS would give exceptions to restrooms in a place of public accommodation that is not available or accessible for public use or contains clear and conspicuous signage indicating

where another baby changing facility is available on the same floor of such place of public accommodation.

The bill would require the CID of the Regulation and Licensing Department to develop and adopt rules governing baby changing facilities for restrooms in a place of public accommodation. HB205/HCPACS would prohibit CID from issuing a certificate of occupancy for new construction of a place of public accommodation unless drawings, specifications, and other submittal documents comply with the bill’s provisions. While HB205/HCPACS would prohibit a private right of action for failure to comply with the bill’s provisions, CID may assess an administrative penalty, not to exceed \$250, for violation of the bill’s provisions or rules adopted in accordance with the bill’s provisions. The bill would require fines be credited to CID to offset the costs of administering the requirements of the bill.

FISCAL IMPACT

The bill does not contain an appropriation.

According to the Regulation and Licensing Department, CID would incur administrative costs for the proposed rulemaking and significant time for employees to create and complete the administrative process to adopt rules.

The approximate cost of a baby changing station is \$230, not including installation. If every public school installed two baby changing facilities, one in restrooms for men and one in restrooms for women, the approximate cost of all baby changing facilities, not including installation, would be nearly \$364 thousand (see Table 1).

Table 1: Approximate Cost of Baby Changing Facilities in All Public Schools

Number of Schools	Total Baby Changing Facilities¹	Approximate Cost of a Baby Changing Facility	Approximate Cost of All Baby Changing Facilities
791	1,582	\$230	\$363,860

¹Calculation is based on installing one baby changing facility in one restroom for men and one restroom for women.

SUBSTANTIVE ISSUES

HB205/HCPACS/aSCORC defines a “baby changing facility” as a table or other device suitable for changing the diaper of a child age 3 or under. The bill defines a place of “public accommodation” as a nursery, elementary, secondary, undergraduate or postgraduate school, or other place of education; an inn, hotel, motel or other place of lodging except for an establishment that is located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as a residence; a restaurant, bar, or other establishment serving food or drink; a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment; an auditorium convention center, lecture hall, or other place of public gathering; a bakery, grocery store, clothing store, shopping center or other sales or rental establishment; a laundromat, bank, barber shop, beauty shop, travel service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment; a terminal, depot, or other station used for public transportation; a museum, library, gallery, or other place of public display or collection; a park, zoo, amusement park, or other place of recreation; a daycare center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center

establishment; and a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

The federal Bathrooms Accessible in Every Situation Act requires male and female restrooms in federal government buildings to be equipped with baby changing facilities that the General Services Administration determines are physically safe, sanitary, and appropriate. HB205/HCPACS/aSCORC expands the requirement of equipping restrooms with baby changing facilities to private entities and businesses.

California and New York have enacted similar bills into law. Similar to the provisions of HB205/HCPACS/aSCORC, California requires baby diaper changing stations to be installed in men's and women's restrooms in publicly owned state and local buildings and private businesses. New York requires all new or substantially renovated buildings to provide safe and compliant baby changing tables in male and female restrooms in state buildings that are open to the public.

ADMINISTRATIVE IMPLICATIONS

CID would need to develop and adopt rules governing baby changing facilities for restrooms in a place of public accommodation. In 2017, CID indicated a similar bill's provisions would place additional duties on CID compliance staff and additional function on staff to collect fees, keep track of fees, and ensure the fees are properly credited to the current school fund. CID also noted the division does not have permit or inspection responsibilities in municipalities that have their own permit and inspection authority nor on federal, military, and tribal lands, including casinos.

SOURCES OF INFORMATION

- LESC Files
- New Mexico Attorney General (AG)

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