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## FISCAL IMPACT REPORT

**SPONSOR** Ferrary/Armstrong, D/ Chandler      **ORIGINAL DATE** 02/14/19  
**LAST UPDATED** 03/05/19      **HB** 423/aHCEDC

**SHORT TITLE** Group Benefits Nonprofit Participation      **SB** \_\_\_\_\_

**ANALYST** Hanika-Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
	Indeterminate		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

No Responses Received From

General Services Department (GSD)

### SUMMARY

Synopsis of HCEDC Amendment

The House Commerce and Economic Development Committee Amendment to House Bill 423 further provides that the “eligible nonprofit entity’s” employees may include those that work full-time, part-time or on a temporary basis; the non-profit’s principal purpose is the care and maintenance of sick or indigent persons; and adds a definition for “indigent person” as one who is a member of a household with a gross income of less than 200 percent of federal poverty level.

Synopsis of Original Bill

House Bill 423 amends the New Mexico Group Benefits Act, Sections 10-7B-2 to -7 NMSA 1978. Specifically, HB 423 amends Section 10-7B-2 NMSA 1978, to permit “eligible nonprofit entities” to participate in those group benefits self-insurance plans currently providing life, vision, health, dental and disability coverage to state employees and employees of local public bodies. HB 423 defines “eligible nonprofit entities” as those entities that meet the following criteria: that have a principal place of business in New Mexico and a principal purpose of caring for sick or indigent persons; employ an average of 51 persons over a twelve-month period; been

designated as a nonprofit entity pursuant to Section 501(c)(3) of the federal Internal Revenue Code of 1986; and which received at least 50 percent of their annual operating budget from federal, state or local government funds for the previous three years and who have provided the director of the risk management division appropriate written notification of the entity's election to participate.

HB 423 provides a cap on contributions made by a participating eligible nonprofit entity towards the cost of participating in the group benefits self-insurance plan. Such contributions may not exceed the percentage provided by law for eligible nonprofit entity group benefits insurance plans.

Next, HB 423 amends NMSA 1978, Section 10-7B-6(E), at page 5, line 7 by, striking the word "or" and replacing it with "and," so as to enable both a soil and water conservation district supervisor and his/her dependents to participate in a group benefits self-insurance plan, as opposed to permitting either the supervisor or his/her dependents to participate, but not both.

HB 423 would also permit a nonparticipating eligible nonprofit entity to elect to participate in any group benefits self-insurance plan established for state employees and local public bodies in the same manner as nonparticipating local public bodies and state agencies.

HB 423 makes necessary corrections to NMSA 1978, Section 10-7B-6(G) to make clear that the risk management division director shall establish an experience rating plan for those groups participating in any group benefits self-insurance plan, including eligible nonprofit entities, that is to be used to establish rates for participating entities. Additional amendments make clear that the experience rating plan may provide separate rates for individual participating entities or experience centers as determined by the director and that the risk management division may establish a reasonable fee to cover the costs of administering group benefits to eligible nonprofit entities.

Finally, Section 3 of HB 423 amends NMSA 1978, Section 10-7B-7 to include eligible nonprofit entities and their employees as beneficiaries of the Group Self-Insurance Fund.

## **FISCAL IMPLICATIONS**

The bill would allow GSD to charge a reasonable fee to cover administrative costs.

## **SIGNIFICANT ISSUES**

HB 423 amends the New Mexico Group Benefits Act to include certain eligible nonprofit entities doing business in New Mexico who care for sick or indigent persons and are designated as a nonprofit entity receiving at least 50 percent of their annual operating budget from public monies.

## **PERFORMANCE IMPLICATIONS**

The NMAG did not note any violations of the New Mexico Constitution's anti-donation clause. Most likely because the bill attempts to address this issue by adding language that tracks an exception to the anti-donation clause for the care and maintenance of sick or indigent persons.

**ADMINISTRATIVE IMPLICATIONS**

GSD would need to medically underwrite the private sector entities, and set up another actuarially sound account to segregate funding for private sector employer claims from public sector employer claims, which would require an initial investment of staff time and resources. However, the bill does allow GSD to charge a “reasonable” administrative fee, which the bill does not define.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Certain eligible nonprofit entities would not be allowed to participate in GSD’s group health pool.

AHO/sb