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## FISCAL IMPACT REPORT

SPONSOR Padilla ORIGINAL DATE 1/18/19  
LAST UPDATED 2/18/19 HB \_\_\_\_\_

SHORT TITLE Workplace Harassment Prevention Section SB 24/aSPAC/aSJC

ANALYST Glenn

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
\$500.0		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB 213

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Workforce Solutions Department (WSD)

### SUMMARY

#### Synopsis of SJC Amendments

The Senate Judiciary Committee amendments to Senate Bill 24 delete the definitions in Section 2(A) of the bill and make a technical, non-substantive change to Section 2(C)(5) by replacing the comma on page 5, line 2 with the word “and”.

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 24 removes “genetic information” from the definition of “unlawful workplace harassment” in Section 2 of Senate Bill 24.

#### Synopsis of Original Bill

Senate Bill 24 adds the Human Rights Bureau and the Workplace Harassment Prevention and Education Section (“WHPE Section”) of the Bureau to the Labor Relations Division of WSD.

The bill provides that the Secretary of WSD shall hire a supervisor for the WHPE Section who must be knowledgeable about laws related to workplace discrimination, particularly workplace harassment and hostile workplaces.

Senate Bill 24 gives the WHPE Section certain responsibilities, including the design and implementation of a prevention and education program to inform employers and employees about laws related to unlawful workplace harassment; issuing guidelines, public service announcements and similar communications focused on preventing unlawful workplace harassment and procedures for documenting and reporting unlawful workplace harassment; serving as a clearinghouse for laws and court cases related to unlawful workplace harassment; assisting the Human Rights Division and Commission in investigating employee complaints of unlawful workplace harassment; and issuing an annual report to the governor and the Legislature.

Senate Bill 24 appropriates \$500 thousand from the general fund to WSD for expenditure in fiscal year 2020 to carry out the purposes of the bill.

### **FISCAL IMPLICATIONS**

The appropriation of \$500 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2020 shall revert to the general fund.

WSD states that the appropriation would fund a supervisor and any subordinate staff as classified employees to design, implement, educate and report workplace harassment prevention and education activities.

### **SIGNIFICANT ISSUES**

According to WSD, the proposed definitions of retaliation, sexual harassment, and unlawful workplace harassment do not align with federal definitions. WSD and its Human Rights Bureau participate in a work sharing agreement with the U.S. Employment Opportunity Commission to accept complaints alleging violation of federal anti-discrimination laws that includes workplace harassment. Alignment of definitions would be necessary to maintain integrity and consistency of current activities and investigations in partnership with the US Employment Opportunity Commission.

WSD states that it currently provides training to state and private entities on all topics of workplace discrimination and public accommodation, including workplace harassment but due to decrease in funding and staffing, activities have been in decline.

### **ADMINISTRATIVE IMPLICATIONS**

According to WSD, it would be required to hire a minimum of two to three FTEs to implement the proposed activities statewide, including one supervisor with experience or knowledge of federal and state laws concerning workplace discrimination. Funds would be necessary to oversee the program, including funds for statewide travel to conduct the training, resources for information technology equipment, materials for training, and funds for additional resources such as access to federal and state laws and court cases.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflicts with HB 213, Paid Family & Medical Leave Act, which also amends Section 9-26-4.

## **TECHNICAL ISSUES**

### SJC Amendments

The SJC amendments remove the definitions in Section 2(A) of the original bill. To avoid any confusion regarding the content of Section 2, the title to Section 2 might also be amended to delete the word “DEFINITIONS” on page 2, line 10.

### Original Bill

WSD states that Section 9-26-4 NMSA 1978 currently lists the divisions of WSD. Expansion of the definition of the “labor relations division” as proposed is incomplete. The Labor Relations Division of WSD also includes the Labor and Industrial Bureau, the Apprenticeship Program, and the Wage and Hour Division as well as the Human Rights Bureau. No other bureau listed in the current statute lists all the sub-divisions in the method proposed in this bill.

## **ALTERNATIVES**

WSD proposes that an alternative to Senate Bill 24 would be to utilize funds to expand the Department’s existing training and outreach program within the Human Right Bureau and to utilize proposed funding to hire a program manager. The program manager’s activities would be limited to oversee education, perform outreach, issue policy exemplars and guidelines, produce publications, and serve as a clearinghouse for information. Existing staff currently charged with conducting investigations would respond to allegations of unlawful workplace harassment.

BG/sb/gb