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FISCAL IMPACT REPORT

SPONSOR Stefanics/Candelaria ORIGINAL DATE 1/29/19
 LAST UPDATED _____ HB _____

SHORT TITLE Additional Unlawful Discrimination Practices SB 227

ANALYST Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		≤\$100.0	≤\$100.0	≤\$200.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Workforce Solutions Department (WSD)
 Administrative Office of the Courts (AOC)

SUMMARY

Senate Bill 227 (SB 227) proposes to amend Section 28-1-7(A) NMSA 1978 (the New Mexico Human Rights Act) to remove the limitation of fifteen or more employees an employer must have to include sexual orientation and gender identity as bases for unlawful discrimination practices.

FISCAL IMPLICATIONS

WSD reported concerns additional personnel and funding may be necessary to accommodate the increase in potential charges of discrimination being filed. However, the agency did not provide an estimate of possible additional FTE costs. In FY19 the average cost per FTE in the Labor Relations program is \$73.5 thousand.

The Administrative Office of the Courts (AOC) reported there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

The Human Rights Bureau of the Workforce Solutions Department currently investigates claims made against employers for discrimination on the basis of gender identity or sexual orientation when the employer has more than 15 employees. Removing the 15-employee limit from Section 28-1-7 NMSA 1978 would result in additional inquiries and charges of discrimination being filed, higher numbers of cases to be investigated, and increase in probable cause hearings.

WSD reported the agency's training program would require expansion to include a larger target group (small businesses with 4-15 employees).

According to the 2018 Quarterly Census of Employment and Wages¹ program, there are about 45,000 employers in New Mexico that have less than fifteen employees.

OTHER SUBSTANTIVE ISSUES

Title VII of the Civil Rights Act of 1964 makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The US Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. (www.eeoc.gov/eeoc/) By adding this language, the state would be closer aligned with the federal language. In order to be fully aligned the state may want to consider adding pregnancy to the language as well.

KK/gb/sb

¹ https://www.dws.state.nm.us/Portals/0/DM/LMI/Size_Class_2018.pdf