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FISCAL IMPACT REPORT

SPONSOR SPAC ORIGINAL DATE 2/21/19
 LAST UPDATED 3/05/19 HB _____

SHORT TITLE Human Rights Settlements on Sunshine Portal SB 317/SPACS/SJCS

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

New Mexico Department of Transportation (NMDOT)

No Response Received From

General Services Department (GSD)

SUMMARY

Synopsis of Bill

The Senate Judiciary Committee substitute for Senate Public Affairs Committee Substitute for Senate Bill 317 (SB 317) provides new material that governs the settlement of Human Rights Commission (HRC) and Equal Employment Opportunity (EEOC) claims by requiring the nature of the claim, the name of the state agency, and the total amount of the settlement to be posted to the Sunshine Portal within thirty days of the applicable period provided for in Section 15-7-9 NMSA 1978. SB317 also amends the applicable periods provided for in Section 15-7-9 NMSA 1978 by eliminating certain dates after which the posting can occur. Those eliminated certain dates are the date that all statutes of limitation have expired and the date the claim is placed on a closed status.

FISCAL IMPLICATIONS

There is an administrative cost associated with SB317 as administrations must incorporate this posting requirement into its practices. Legal counsel and IT services must delegate resources to posting such settlements in a manner that meets the requirements of SB317 and protects

confidentiality, attorney-client privileged information, attorney work product, and in some cases, the identities of parties involved.

NMDOT reports there is a potential unforeseen cost that may be associated with introducing such information to the Sunshine Portal. That is, if a claimant perceives that the posting exposes the claimant, then a claim of retaliation may arise.

SIGNIFICANT ISSUES

The Attorney General notes:

The Sunshine Portal Transparency Act already broadly defines “state agency” to mean “the New Mexico state government or any department, division, institution, board, bureau, commission or committee of state government and includes any office or officer of any of the above.” NMSA 1978, Section 10-16D-2 (H). SB317 defines “state agency” at Section 1 (C), to mean “state agency, department or office that has authority to contract in the name of the state or to make payments from state funds.” It is unclear whether SB 317’s definition is intended to be more or less inclusive than that in the Sunshine Portal Transparency Act.

IT/sb/gb