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FISCAL IMPACT REPORT

SPONSOR Lopez ORIGINAL DATE 2/27/19
LAST UPDATED _____ HB _____
SHORT TITLE Policies to Decrease Institutional Racism SB 340
ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
New Mexico Attorney General (NMAG)
Department of Health (DOH)

No Response Received From

State Personnel Office (SPO)

SUMMARY

Synopsis of Bill

Senate Bill 340 requires state agencies and entities receiving state funding to develop and implement policies to decrease institutional racism. Agencies are required to report their findings, action plans, policies, and practices to the Legislature by July 31 each year. State agencies must

- Evaluate their anti-institutional racism policies in hiring, promotion, retention, pay equity, community engagement, and workplace participation;
- Create a data infrastructure to track progress in ending institutional racism;
- Institute a statewide evaluation of race and gender gaps in hiring, promotion, retention, and pay and implement an action plan to rectify any inequities;
- Include preferred criteria language in all job advertisements and annual reviews;
- Include criteria for promotion and appointments that value a demonstrated commitment to ending institutional racism and value inclusion and diversity;
- Appoint an equity liaison on all job searches; and
- Provide and document annual anti-institutional racism training for all employees.

In addition, the Public Education Department must advance critical, intersectional ethnic studies for teachers, staff, students, and families.

SB340 defines “institutional racism” as actions that result in differential access to the goods, services, and opportunities of society due to the existence of institutional programs, policies, and practices that intentionally or unintentionally place certain racial and ethnic groups at a disadvantage in relation to other groups.

FISCAL IMPLICATIONS

The 100 smallest agencies in the state have, on average, less than 50 employees each. Since the human resources (HR) consolidation initiative began centralizing HR staff at the State Personnel Office (SPO), many agencies no longer have the staff necessary to conduct analysis of HR practices. These agencies may be unable to fulfill the mandates of SB340 without additional resources.

Because the language of the bill is ambiguous, it is difficult to determine what the impact on agency operating budgets may be. For example, the inclusion of an “equity liaison on all job searches” does not describe the duties of the liaison making it impossible to estimate the time this would require. Similarly, requiring all agencies to “institute a statewide evaluation of race and gender gaps in hiring, promotion, retention and pay” may require a level of expertise not present in a number of agencies.

SIGNIFICANT ISSUES

SB340 requires state agencies and “any entity receiving state funding” to develop and implement policies to decrease institutional racism.” According to the Attorney General’s Office (NMAG) this category potentially includes any *private contractors* providing services to the state, including individuals, private nonprofit organizations, private schools, etc.

AOC notes SB340 does not include a definition of state agency. It is unclear whether the term state agency would include the judiciary and, therefore it is unclear whether subsection B is meant to apply to the judicial branch.

In response to a similar bill from a previous session, SPO notes, the term “preferred criteria,” to be included on all job advertisements and annual reviews as required in subsection (B)(4), is not defined and without clarification likely will lead to difficulties in implementation.

The state application process does not require applicants identify their race or ethnicity; disclosure is optional. Accordingly, SPO advises that obtaining information based on an employee’s race or ethnicity is not necessarily possible within the framework of the state personnel system, because a significant number of employees do not disclose this information.

OTHER SUBSTANTIVE ISSUES

NMAG notes that, in addition to race, the bill targets “gender gaps” in hiring, promotion, retention, and pay. Gender, however, is not included in the definition of institutional racism. This incongruity may be problematic.

CJ/sb