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## FISCAL IMPACT REPORT

**SPONSOR**     Lopez/Roybal                      **ORIGINAL DATE**     2/9/2021  
                     Caballero                                      **LAST UPDATED**     3/12/21                      **HB** \_\_\_\_\_  
**SHORT TITLE**     Institutional Racism in State Agencies                      **SB**     230/aSJC  
**ANALYST**     Lobaugh

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

State Personnel Office (SPO)

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of SJC Amendment

The Senate Judiciary Committee (SJC) amendment to Senate Bill 230 (SB230) adds language to the bill specifying the State Personnel Office must provide anti-institutional racism training to all employees subject to the state Personnel Act, which includes

- (1) A historical perspective on New Mexico, spotlighting the many racial and ethnic populations that live and work in New Mexico and the need for all New Mexicans to be aware of, appreciate, and celebrate the cultural differences alive in the state;
- (2) Strategies that eliminate cultural prejudices and discrimination while strengthening the common threads that bind individuals into one state and one nation;
- (3) Strategies that improve engagement with employees, customers, or clients from different cultural backgrounds; and
- (4) Strategies that counteract unconscious bias and foster a climate of diversity and inclusion in the state government workplace.

#### Synopsis of Original Bill

Senate Bill 230 (SB230) defines “institutional racism” in state law 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 relative to other groups.

SB230 directs the State Personnel Office (SPO) to

- (1) Conduct an annual evaluation of race (as self-identified by applicants, candidates, and employees subject to the state Personnel Act) as related to hiring, promotion, retention, and pay within state government;
- (2) Develop policies, for agencies subject to the state Personnel Act, to identify, reduce, and prevent inequities in hiring, promotion, retention, and pay due to institutional racism;
- (3) Analyze state employment datasets of race to track progress towards ending institutional racism; and
- (4) Develop and provide anti-institutional racism training to all employees subject to the state Personnel Act.

SB230 directs each state agency or entity that receives state funding to annually develop and submit a plan to address institutional racism as part of its annual final budget submission. SB230 would require copies of the annual plans to be provided to the Legislature, the Legislative Finance Committee, and the Courts, Corrections, & Justice Committee.

SB230 also requires that each state agency, or entity receiving state funding, to

- (1) Assess its internal anti-institutional racism policies;
- (2) Create steps in its hiring and promotion policies to incorporate the values of diversity, equity, and inclusion;
- (3) Include statements in all job advertisements and annual reviews describing how the state is committed to reducing and preventing institutional racism and also requires annual anti-institutional racism training; and
- (4) Provide aggregate demographic statistics for all employees.

## **FISCAL IMPLICATIONS**

SB230 does not include an appropriation. However, SB230 would likely result in increased costs for agencies. The bill contains requirements for providing the demographics statistics of employees, tracking progress on ending institutional racism, providing annual anti-institutional racism trainings for state employees, conducting an annual evaluation of race as related to hiring, promotion, retention, and pay, and developing annual plans to address institutional racism. Because many state entities have fewer than 50 employees each, these agencies may be unable to fulfill the requirements of SB230 without additional resources.

SPO reports that it would require an additional full-time employee to perform the training responsibilities outlined in SB230. SPO also notes that it may require additional funding to modify the state human resources, accounting, and reporting (SHARE) system to collect self-reported race data from all applicants for classified positions at the time they first apply. SPO mentioned that these costs to modify the SHARE system are currently unknown.

## **SIGNIFICANT ISSUES**

The state employment application process does not require applicants to identify their race or

ethnicity. SPO and other state-funded entities only have access to the data provided by employees who choose to voluntarily self-identify their race. Because state entities only have access to self-reported data, SPO mentions that “there are limitations to the race data that will be available to carry out the requirements of SB230.”

SB230 requires the State Personnel Office (SPO) to annually conduct analyses to track progress towards ending institutional racism but does not define how institutional racism would be measured and tracked, meaning the State Personnel Office (SPO) would be responsible for defining how institutional racism would be measured and tracked within each state agency.

SPO noted that it would need to “balance SB230’s goal of reducing and preventing racial inequities in hiring with the requirement that New Mexico’s classified employment system be based solely on qualification and ability, which requirement is set out in the Personnel Act” (Section 10-9-2 NMSA 1978).

### **OTHER SUBSTANTIVE ISSUES**

The state Human Rights Act states that it is an unlawful discriminatory practice for an employer “to refuse to hire, to discharge, to promote or demote or to discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified because of race...” (Section 28-1-7 NMSA 1978).

### **TECHNICAL ISSUES**

Subsection A and Subsection B of Section 1 of SB237 do not apply to the same state agencies. Subsection A refers to state agencies subject to the state Personnel Act. Subsection B applies to each state agency or state entity receiving state funding. Judicial branch agencies, legislative branch agencies, higher education institutions, and public schools are not included in the state Personnel Act (Section 10-9-4 NMSA 1978) but receive state funding.

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