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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/21
LAST UPDATED 02/28/21 **HB** _____
SPONSOR Ortiz y Pino
SHORT TITLE Anatomical Gift Option on License **SB** 251/aSHPAC
ANALYST Graeser

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Significant for all 43 boards or agencies		Significant	Nonrecurring	
		Moderate impact on MVD		Moderate	Nonrecurring	TRD/MVD operating
		Minimal for all agencies and boards		Minimal	Recurring	

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Board of Licensure for Professional Engineers and Professional Surveyors
 Office of Superintendent of Insurance (OSI)
 Department of Game and Fish (DGF)
 Board of Examiners for Architects
 Board of Veterinary Medicine

SUMMARY

Synopsis of SHPAC amendment

The Senate Health and Public Affairs Committee amendment to Senate Bill 251 essentially removes the necessity for a witness to sign the application for an anatomical gift. Additionally, in each section of the bill, if the prospective donor has already indicated a willingness to be a donor on an identification card issued pursuant to 66-5-401 NMSA 1978 then the professional license applicant would be excused from the requirement of accepting or rejecting donor status.

Synopsis of Original Bill

Senate Bill 251 extends the coverage of the Jonathan Spradling Revised Uniform Anatomical Gift Act (Chapter 24-6B NMSA 1978) from a designation on a driver's license, learner's permit, or identification card to licenses issued by other state agencies, including 41 license categories overseen by Regulation and Licensing Department, hunting and fishing licenses administered by

Game and Fish Department, and concealed handgun carry act licenses administered by the Department of Public Safety. The full list is included at “Significant Issues.”

In all cases, the bill requires all license applications to include a space to show whether the applicant is a donor as provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act. The applicant may indicate the applicant's donor status on the space provided on the application if the applicant has not already marked the applicant's donor status on an application form for a driver's license pursuant to Section 66-5-10 NMSA 1978. If the applicant desires to be a new donor, the form shall be signed by the donor in the presence of a witness who shall also sign the form in the donor's presence.

Each board that issues a license shall, by January 1, 2022, include the following donor statement on each license application and license renewal form: "I hereby make an anatomical gift effective upon my death. A medical evaluation at the time of my death shall determine the organs and tissues suitable for donation.”

Each board or agency is then required to transmit the new donor information to the Motor Vehicle Division of Taxation and Revenue Department. MVD is required to include the application information in the common database of individuals who wish to participate in the anatomical donation program.

The effective date of this bill is January 1, 2022. Each section of the bill includes the requirement that each board or agency implement the required changes on forms and in procedures.

FISCAL IMPLICATIONS

There are no revenue consequences of this bill, but MVD, Game and Fish, Department of Public Safety, and each of the 41 professional and occupational boards named in the bill may have significant administrative costs. Only four of the boards and agencies affected by this proposal have responded.

The Department of Game and Fish will have particular difficulties with implementing the provisions of this bill. “DG&F would need to direct staff time for at least one programmer, SQA specialist and licensing operations manager to plan, program, and test changes to web-based software applications and build the interface with MVD at an estimated cost of \$100,000.” Game and Fish proposes an alternative that would use electronic attestation and simplified transfer of data to MVD, although an electronic attestation may not satisfy legal requirements that each include a physical signature from the donor and a witness.

The director of the Board of Veterinary Medicine indicates the board would have to call for a hearing to allow public input regarding the change to the Veterinary Practice Act. Costs of this requirement could be as high as \$10 thousand. In addition, the BVM would incur the same IT costs as the other boards and agencies.

SIGNIFICANT ISSUES

Professional, occupational or other boards.

Hunting or fishing licensed (Game & Fish)
Concealed Handgun Carry Act licenses (Department of Public Safety)
All licenses issued under the Uniform Licensing Act
Licenses issued pursuant to the Optometry Act;
Licenses issued pursuant to the Nursing Practice Act;
Licenses issued pursuant to the Chiropractic Physician Practice Act;
Licenses issued pursuant to the Dental Health Care Act;
Licenses issued pursuant to the Medical Practice Act;
Licenses issued pursuant to the Genetic Counseling Act;
Licenses issued pursuant to the Polysomnography Practice Act;
Licenses issued pursuant to the Nutrition and Dietetics Practice Act;
Licenses issued pursuant to the Podiatry Act;
Licenses issued pursuant to the Professional Psychologist Act;
Licenses issued pursuant to the Counseling and Therapy Practice Act;
Licenses issued pursuant to the Osteopathic Medicine Act;
Licenses issued pursuant to the Pharmacy Act;
Licenses issued pursuant to the Occupational Therapy Act;
Licenses issued pursuant to the Respiratory Care Act;
Licenses issued pursuant to the Massage Therapy Practice Act;
Licenses issued pursuant to the Physical Therapy Act;
Licenses issued pursuant to the Naprapathic Practice Act;
Licenses issued pursuant to the Nursing Home Administrators Act;
Licenses issued pursuant to the Veterinary Practice Act;
Licenses issued pursuant to the Acupuncture and Oriental Medicine Practice Act;
Licenses issued pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;
Licenses issued pursuant to the Athletic Trainer Practice Act;
Licenses issued pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;
Licenses issued pursuant to the Uniform Athlete Agents Act;
Licenses issued pursuant to the Architectural Act;
Licenses issued pursuant to the Barbers and Cosmetologists Act;
Licenses issued pursuant to the Body Art Safe Practices Act;
Licenses issued pursuant to the Engineering and Surveying Practice Act;
Licenses issued pursuant to the Landscape Architects Act;
Licenses issued pursuant to the Interior Designers Act;
Licenses issued pursuant to the Home Inspector Licensing Act;
Licenses issued pursuant to the Private Investigations Act;
Licenses issued pursuant to the 1999 Public Accountancy Act;
Licenses issued to Real Estate Brokers and Salesmen;;
Licenses issued pursuant to the Real Estate Appraisers Act;
Licenses issued pursuant to the Social Work Practice Act;
Licenses issued pursuant to the Funeral Services Act;
Licenses issued pursuant to the Utility Operators Certification Act;
Licenses issued pursuant to the Signed Language Interpreting Practices Act;
Licenses issued pursuant to the Lactation Care Provider Act.

The Board of Professional engineers and Surveyors reports that 76 percent of licenses are based out of state. These licensees would be well advised to become donors in their resident state. However, this designation is entirely voluntary.

The Department of Game and Fish will have particular difficulties with implementing the provisions of this bill. Unlike the professional and occupational licensing boards, which have one

point of contact and that point of contact is online, hunting and fishing licenses are available at many vendors around the state.

It's unclear whether this bill could be implemented in our software because of the specific language and signature requirement described in the legislation. It's difficult to quantify how long this would take. All Department of Game & Fish license applications, which include both draw applications and all license sales at all vendor locations and Department offices, use custom built web-based software. The specific language provided by the law could not be accommodated verbatim because our customers "sign" their applications essentially by agreeing to the terms we provide upon application or sale.

If the Department were able to use an electronic attestation, it would be a simple matter of staff time to program this into our software and test it, as well as building some sort of interface to convey this information to MVD.

The Department sells licenses through independent vendors across the State. A system would have to be developed to facilitate these vendors submitting the required information.

The Department would have distinguish between resident and nonresident licensees further complicating the collection and distribution of information.

The NM Board of Examiners for Architects has similar concerns, although costs are apparently of concern.

Licensure to practice architecture in the state of NM does not require an applicant to provide such personal private preference information. A full two-thirds of the registrants for the practice of architecture in NM are out of state architects. Requesting, tracking, and reporting this information within the state or outside of the state would add a burden to the small staff of the NMBEA which would require an additional Full time Equivalent staff person. If the information provided by a licensee conflicts with the records of the MVD, confusion and potential lawsuits could be brought against the NMBEA. The additional requirement could prove burdensome on the Board.

The estimated additional operating budget impact would increase because NMBEA will need to hire an additional employee with benefits and pay additional costs to our IT consultants to revise all online applications and website information as well as supplies to re-print Architectural Acts, applications, renewal statements, postage, printing supplies etc. to comply with this amendment.

Additional Staff would be required to recreate the current licensing forms and information and to administer and report the information to MVD and to deal with unrequested unnecessary information to MVD's outside of the state of NM. Potential lawsuits from out of state architects for privacy issues, right to work or requests for irrelevant information might require additional legal counsel support. Legal counsel which is not required for the licensure and practice of architecture.

PERFORMANCE IMPLICATIONS

The provisions of this bill do not align with the performance objectives of any board or agency.

ADMINISTRATIVE IMPLICATIONS

Most of the boards maintain an online application or registration system. Implementing the application changes required by this bill will impose costs. It may be that RLD maintains the online application and registration systems and can implement the IT changes for all 41 boards.

The Board of Examiners for Architects points out the administrative complications: “NMBEA would have to create new licensure forms, processes, and procedures for validating and reporting the information. The IT hours to prepare, test, and implement will require additional financial costs to the Board.”

TECHNICAL ISSUES

The board of professional engineers and surveyors indicates a potential confusion:

Section 4 requires a copy of each document to be sent to the motor vehicle division of the taxation and revenue department. The purpose is to show the applicant/licensee has **a desire** to be an anatomical donor. Whereas, section 33 requires a copy of each document indicating **whether the applicant is a donor** as provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act.

LG/rl/al