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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/2016

SPONSOR Cervantes LAST UPDATED _____ HB _____

SHORT TITLE Transportation Network Company Services Act SB 254

ANALYST Mulligan

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
	\$20.0	\$20.0	Recurring	Transportation Division Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	Transportation Division Fund, Possibly General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicate / Companion to: HB 168, Transportation Network Company Services Act

SOURCES OF INFORMATION

LFC Files

Previous Responses (HB 168) Received From
 Attorney General's Office (AGO)
 Office of Superintendent of Insurance (OSI)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 254 would enact new provisions of law designed to provide a legal framework for regulating "transportation network companies," or TNCs, other than taxicabs, limousines, and shuttle services that provide personal transportation by small private operators usually procured through the internet on a one-time or single-case basis. The bill would charge the Public

Regulation Commission (PRC) with issuing rules to provide a regulatory framework under the act and with issuing permits to transportation network companies.

The bill would also:

- require companies to disclose fares and fare calculations methods on their websites, display pictures of drivers and their vehicles on their websites, and send electronic receipts following trips;
- require such companies or their drivers to maintain insurance coverage of up to \$1 million for death, bodily injury, or property damage and provide other insurance requirements and enact other requirements and exclusions regarding auto insurance for companies and drivers;
- specify the conditions under which drivers shall be considered independent contractors;
- require companies to implement zero tolerance policies regarding alcohol and illegal drug use by drivers;
- require drivers to register with the companies, and the companies to conduct background checks on drivers, prior to allowing them to transport customers;
- prohibit companies from authorizing drivers who have been convicted of certain driving offenses, are under age 19, or do not possess valid drivers licenses;
- require vehicles used to meet private vehicle standards in the Motor Vehicle Code, prohibit street hails, and prohibit cash payments from riders;
- prohibit discrimination and additional assessments for service animals;
- require companies to maintain records;
- prohibit local governments from taxing such services except as regular businesses;
- create a new non-reverting “transportation division fund” administered by the PRC to assist in carrying out the bill’s requirements; and
- authorize the PRC to investigate violations of the act, issue orders to address them, assess fines for violations, suspend and revoke licenses, and conduct hearings on suspensions and revocations.

FISCAL IMPLICATIONS

Fees collected go into a new non-reverting fund (the transportation division fund) and are appropriated to the PRC to carry out its duties under the act. It is unclear how much the bill will cost to implement, and how much revenue would be generated from the \$10,000 per-company per-year license fee. It appears that relatively few companies operate such services and would be prepared to register with the PRC and pay the \$10 thousand fee; PRC estimates that two companies would be subject to the bill and register.

In addition, although the revenue amounts appear to be limited, provisions of the bill create a new fund and provide for continuing appropriations from the fund through statute. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish annual spending priorities.

PRC reports that the adoption of rules under the Act, the processing of TNC applications, and the additional inspections or investigations, although requiring additional work, at this time, can be handled with existing PRC staff. However, experience regulating under this new program may

reveal a need for additional FTE in the future, which could necessitate additional general fund need or an increase in the annual fee.

SIGNIFICANT ISSUES

The bill specifically excludes TNCs from the definition of “motor carrier” in current law (65-2A-1 NMSA 1978) and states that TNCs and their drivers do not provide taxicab, limousine, or shuttle services, and that a TNC driver’s vehicle is not a commercial or for-hire vehicle. The bill also specifically provides that TNC drivers are independent contractors and not employees. Taken together, the provisions may provide for disparate treatment of TNCs by providing a separate regulatory environment from the already-existing and long-standing body of laws and regulations that govern companies that operate as taxicabs, limousines, or shuttles and other similar personal transportation services.

PRC reports that it held hearings in 2014 and 2015 regarding the ability of ride-sharing companies such as Lyft and Uber to operate in the state, and the commission made a determination in April 2015 to allow such services. A unanimous vote declared PRC has the authority to regulate ride-sharing operations, a claim previously disputed by Lyft, and a second vote with one commissioner dissenting approved rules under which the services must operate -- rules that differed from those for taxicab companies. However, taxi companies opposed the ruling and appealed the commission’s decision. After the New Mexico Supreme Court reviewed the case and remanded it back to PRC to hear motions for reconsideration, the commission voted to vacate the rules, and ride-sharing services are again in an uncertain regulatory environment without rules that officially allow the services to operate and without any requirements they must follow. Either this bill or similar legislation will likely be needed to completely resolve the situation and formally allow ride-sharing operations in the state.

The Office of Superintendent of Insurance notes that current automobile insurance policies cover an entire continuous six-month or twelve-month period rather than just moments in time that depend on when a driver is logged in to the transportation network company’s digital network or when a passenger is in the driver’s car, as the bill provides. This may necessitate the creation by insurance companies of automobile insurance policies whose periods of coverage are triggered by electronic ride-sharing logs, which would need to be provided to the insurance company by the transportation network company. OSI also states that the \$1 million coverage limit while rides are being provided is, to its knowledge, in line with higher coverage limits required under the PRC for taxi service.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 254 is identical to HB 168.

TECHNICAL ISSUES

The bill includes a 5 percent limitation on administrative costs of the fees collected by PRC. It is unclear what costs may be considered administrative, since many if not all of the activities that the PRC engages in could be considered administrative.

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