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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/19

SPONSOR Hochman-Vigil LAST UPDATED _____ HB 244

SHORT TITLE Minimum Train Operating Crews SB _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY19 | FY20 | FY21 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | | NFI | | | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Transportaion (DOT)

Public Regualtion Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 244 (HB244) amends the requirements for a class 1 or class 2 railroad train or locomotive that is used in the movement of freight to provide for a minimum crew of at least one certified engineer and one certified conductor. A railroad supervisor who violates this requirement shall be subject to a civil penalty of up to \$1,000 for the first violation and a civil penalty of up to \$5,000 for each subsequent violation. Makes an exception for hostling and helper operations, remote control locomotives in railyards or as otherwise provided by federal law or regulation.

Defines “class 1” and “class 2” railroads as used in federal statutes. Defines “helper” as a railway locomotive that temporarily assists a train that requires additional power or traction to climb a gradient. Defines “hostling” as the action of shuttling a locomotive from the yard to the engine house or vice versa.

FISCAL IMPLICATIONS

There is no direct fiscal impact to the state associated with enactment of HB244.

SIGNIFICANT ISSUES

The Public Regulation Commission notes that HB244 imposes fines for violations of the two person train crew mandate although it is unclear [what regulating entity] is to issue citations for violations outlined in HB244 and collect the civil penalties from those violations.

The Department of Transportation notes the following:

There currently are no federal laws or regulations mandating crew size on trains. The class 1 railroads oppose efforts to enact federal laws and regulations that would mandate crew sizes on trains.

Also, if HB 244 is enacted, trains operated by class 1 railroads across the state line could face crew size requirements in New Mexico that are different from crew size requirements in neighboring states, which are defined by each railroads' operating rules and the terms of existing labor agreements with its unions.

ADMINISTRATIVE IMPLICATIONS

While neither responding agency noted an administrative implication associated with SB244, additional regulation will require a regulator to administer. The PRC would presumably be this regulator and may be required to add duties to the job descriptions of existing staff or hire additional staff as a result of enactment of this bill.

TECHNICAL ISSUES

The PRC notes:

The authority of a state to require two person crews is allowed under the Federal Railroad Safety Act of 1970, which allows states, under certain limited circumstances to regulate railroad safety without federal preemption. More specifically, The Seventh Circuit Court of Appeals in a case entitled *Burlington Northern and Santa Fe Railway Co. v. Doyle*, 186 F. 3d 446 (7th Cir. 1999) held that the state of Wisconsin's requirement for a two person crew was valid and was not preempted by federal law. The court said that a state could require two persons on a train, but could not mandate that the crew members be either a certified engineer or a qualified trainman. It is valid simply to legislate that two persons are required to operate a train. The court determined that the federal regulations cover the actual qualifications of each employee.

OTHER SUBSTANTIVE ISSUES

A class 1 railroad are companies that have revenues over \$447 million. While class 1 railroads exist in New Mexico, there are currently no class 2 railroads.

CJ/gb/al