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## FISCAL IMPACT REPORT

**SPONSOR** Ferrary/Thomson/ **ORIGINAL DATE** 2/14/19  
Armstrong, D/Bash **LAST UPDATED** 3/6/19 **HB** 422/aHHHC

**SHORT TITLE** Developmental Disabilities Council Membership **SB** \_\_\_\_\_

**ANALYST** Chenier

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

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal	Minimal	Minimal	Recurring	Developmental Disabilities Planning Council

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)  
 Aging and Long-Term Services Department (ALTSD)  
 Human Services Department (HSD)  
 Developmental Disabilities Planning Council (DDPC)

### SUMMARY

#### Synopsis of HHHC Amendment

The House Health and Human Services Committee amendment to House Bill 422 would require no more than three members of DDPC with developmental disabilities or their parents, immediate relatives, or guardians to be served by the same developmental disabilities service provider, that none of these members are an employee, contractor, or board member of a service provider that receives funds from DDPC or DOH, and that none of the members shall be an employee, contractor, or board member of an agency that provides guardianship, conservatorship, or mental health treatment guardianship services. The amendment would also repeal 28-16A-8 NMSA 1978 (planning for community services for persons with developmental disabilities) instead of Section 28-16A-9 NMSA 1978 (information and referral system; coordination and continuation).

Synopsis of Original Bill

House Bill 422 would amend, repeal and enact sections of the Developmental Disabilities Act to make changes to the Developmental Disabilities Planning Council (Council) membership and duties. HB 422 updates the provisions of current New Mexico law to align with the provisions of current federal law as they relate to the Developmental Disabilities Planning Council.

**FISCAL IMPLICATIONS**

Since most changes in this bill are meant to update state statute to coincide with the federal law the agencies affected did not cite fiscal implications.

DDPC provided the following:

Depending on area, there might be a need for slight increases, as far as, the amount spent on Council travel reimbursement. However, this is an internal implication as opposed to one affecting other state agencies.

Even though this bill changes the DDPC staff, duty, and structure it does not have fiscal implications. Under federal requirements, DDPC is already required to perform some of the tasks that are not currently specified in State law. For example, currently, a new State plan and any updates of all sections of the DDPC report, including the comprehensive review and analysis, must be submitted on a yearly basis to the Administration on Intellectual and Developmental Disabilities (AIDD). A yearly performance progress report must also be submitted to the AIDD on the yearly basis. The AIDD lays out criteria that must be met in order for the AIDD's five-year plan to be both approved and funded.

The increase in membership along with alignment with racial and ethnic demographics of the state is also something that AIDD desires as a part of their oversight of all the councils.

**SIGNIFICANT ISSUES**

DDPC provided the following:

The new membership requirements in the amended bill may shut out potential Council members simply because their services come from a specific provider agency. While this issue might not come up in a city, many rural areas or even regions in New Mexico might only have one provider. Thus, effectively, this rule might shut out more than one representative from a whole community or even region.

As far as reporting duties, the bill's additions are already required by the Administration on Intellectual and Developmental Disabilities (AIDD), who oversees DDPC and all DD Councils in the nation.

DDPC staff recently established procedures, including deadlines, for gathering current and accurate data in specific areas. This is completed through collaboration with state agencies and the examination of state reports in each area. The Legislature also assisted

in procuring the data from state agencies and various agencies through a letter sent. As a result, state agencies provided important information in November and December to DDPC. This information was compiled and the 2019 State Plan was submitted to AIDD on January 31, 2019. This 2019 State Plan is in the process of being submitted to the Governor and the Interim LHHS committee. Thus, by December 1 of this year, DDPC and other state agencies will be able to meet this requirement with minimal difficulty.

DOH provided the following:

People with intellectual disabilities and their families face extra burdens and stress and typically fall at the bottom of the economic spectrum in communities and across countries. (*Emerson, E, Disability Rights International Country Reports, 2007*). People with intellectual disabilities have lower levels and rates of employment and/or less meaningful employment than the general population or other disability groups ([http://media.specialolympics.org/soi/files/resources/Communications/SO\\_CGIU\\_Brochure.pdf](http://media.specialolympics.org/soi/files/resources/Communications/SO_CGIU_Brochure.pdf)).

This bill provides for membership on the council to be more representative of the geographical, cultural and ethnic diversity of the stakeholders for these services and the state agencies that are responsible for the planning and delivery of these services. Securing the council members to be in compliance with the new requirements, while noteworthy, might be difficult to accomplish. However, most of the changes in the bill reflect the current requirements in the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 USC 15025, Section 125), including the membership requirements.

The subject of the revision of the current law was introduced at the Interim Legislative Health and Human Services Committee in 2018. The federal law, which was the original impetus for the New Mexico law, had been amended during the intervening years with no substantive review of the New Mexico law.

The bill will provide DOH stakeholders and customers with a role for providing more representation and input into services and supports that are developed and provided for persons with developmental disabilities.

HSD said although not specifically outlined in the bill, HSD may be required to provide data to the DDPC to support the comprehensive review and analysis. HSD currently does not have access to data measuring the range and degree of severity of disabilities for individuals with developmental disabilities. Current assessments used in the NM 1915 (c) waiver system measure whether a waiver participant meets eligibility criteria for an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID) level of care. HSD is working with DOH to implement a standardized Developmental Disabilities assessment tool and research potential measures for disability severity.

**ADMINISTRATIVE IMPLICATIONS**

DDPC said they will need to actively recruit new members to fill the new council seats and will need timely appointments from the governor.

With the language regarding contractors, the amended bill should clarify what contractual terms disqualify someone. Otherwise, the majority of self-advocates and family members could be excluded, even though they are not exclusively contracted to one particular organization, if they happened to receive a stipend from them.

EC/al/gb