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FISCAL IMPACT REPORT

ORIGINAL DATE 03/01/21

SPONSOR Candelaria LAST UPDATED _____ HB _____

SHORT TITLE Refund & Waiver of Certain Business Licenses SB 293

ANALYST Nichols

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
	(\$1,082.0)	(\$374.0)	Nonrecurring	State Parks
	(\$4,500.0 - \$6,750.0)	(\$1,500.0 - \$2,250.0)	Nonrecurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to Appropriation in the General Appropriation Act of 2021

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

Senate Bill 293 waives or refunds license fees for business whose operations were restricted by an executive order made pursuant to the Public Health Emergency Response Act.

The bill directs the Energy, Minerals and Natural Resources Department (EMNRD) to refund fees paid in 2020 and 2021 and waive fees for 2022 and 2023 for concessionaires whose business was either prohibited from or restricted in operations during 2020 or 2021 due to the public health emergency and can demonstrate that the business was negatively financially affected by the Public Health Emergency Response Act.

Similarly, the bill directs the Regulation and Licensing Department (RLD) to refund liquor license fees paid in 2020 and 2021 and waive fees for 2022 and 2023 for licensees whose business was either prohibited from or restricted in operations during 2020 or 2021 due to the public health

emergency and can demonstrate that the business was negatively financially affected by the Public Health Emergency Response Act.

In both cases, affected businesses must submit written requests to EMNRD or RLD to be eligible for fee refunds and waivers.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

EMNRD's State Parks Division estimates having to refund \$708 thousand in fees for 2020 and 2021, and a loss of fee revenue of approximately \$374 thousand each in FY22 and FY23. The fiscal impact assumes that the refunds would be paid in FY22, affecting that year's revenues.

The State Parks Division is an enterprise agency and relies largely on self-generated revenues, including concession revenues. In FY21, approximately 28 percent of the division's budget of \$29.4 million was supported by the general fund and nearly 60 percent came from other state funds, including concession fees. Foregone fee revenue could impact the division's budget, possibly requiring supplementing of lost revenue with general fund revenue.

RLD estimates a cost of approximately \$3 million per year to refund or waive fees. RLD's estimates appear to assume that all licensees would be eligible for refunds or waivers. It is not clear how many licensees could demonstrate that their business was negatively affected by compliance with the executive order. The fiscal impact uses an assumption that between 50 and 75 percent of fee revenue would be refunded or waived, and assumes that refunds from 2020 and 2021 would be paid in FY22, affecting that year's revenues.

However, all fees received by RLD's Alcoholic Beverage Control (ABC) Division are transferred to the general fund, and RLD does not retain fees that could be used to refund licensees. The bill does not include an appropriation for fee refunds of an estimated \$3 million to \$4.5 million for calendar years 2020 and 2021.

SIGNIFICANT ISSUES

SB293 does not specify how a licensee or concessionaire would demonstrate that it was negatively financially affected by the Public Health Emergency Response Act, and does not specify any criteria that RLD or EMNRD would use to make that determination.

RLD notes that the bill directs it to refund fees collected in calendar years 2020 and 2021, but does not create a waiver of fees not yet collected in 2021, which would require ABC to collect the 2021 fees and then reimburse the licensee. Presumably EMNRD could face a similar scenario.

ADMINISTRATIVE IMPLICATIONS

The affected agencies would presumably have to set up a process for receiving, processing, and approving requests for fee waivers and refunds. EMNRD only has 10 concessionaries, but RLD has over 3,800 active liquor license holders.

RLD notes that processing fee refunds can be time consuming, requiring supporting documentation that must be processed through SHARE. ABC currently has one FTE to perform these tasks, and processing over two thousand refunds could require a significant amount of staff time.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 2 directs RLD to waive liquor license fees for all licensees for the next the next renewal period. SB2 would apply to all licensees, not only those who can demonstrate that the business was negatively financially affected by compliance with the executive order.

OTHER SUBSTANTIVE ISSUES

The State Parks Division manages 35 state parks across 26 counties. Since March 16, 2020, access to state parks has been prohibited or open with restrictions pursuant to the Public Health Emergency Response Act.

The division currently contracts with 10 concessionaires, including six marinas (Elephant Butte Lake, Navajo Lake, Ute Lake); two sailing clubs (Heron Lake, Elephant Butte Lake); an internet provider (statewide); and a winter sports rental (Hyde Memorial). With the exception of the Internet provider, each concessionaire submits a monthly or annual concession fee to the division based on either a flat rate or a percentage of their net receipts. Fees are negotiated and defined in each concession agreement.

There are approximately 3,800 active liquor license holders in the state, including 1,023 direct shipment licensees, 794 dispenser licensees, 712 restaurant licensees, and smaller numbers of other license holders. Annual license fees range from \$25 to \$3,000, depending on the type of license. Annual license renewal fees are due in either April, August, or December, depending on the license.

AN/sb