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FISCAL IMPACT REPORT

SPONSOR Caballero/Sedillo ORIGINAL DATE 1/20/22
Lopez/ Bounkeua LAST UPDATED 2/08/22 HB 22/aHAFC

SHORT TITLE Limited English Access to State Programs SB _____

ANALYST Hitzman

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Senate Bill 22

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Department of Workforce Solutions (DWS)
- Human Services Department (HSD)
- Department of Finance and Administration (DFA)
- State Personnel Office (SPO)
- Aging and Long Term Services Department (ALTSD)
- Department of Health (DOH)
- Early Childhood Education and Care Department (ECECD)

No Response Received

- Taxation and Revenue Department (TRD)
- Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 2 removes the \$50 thousand appropriation to the local government division of the Department of Finance and Administration from the original bill.

Synopsis of Bill

House Bill 22 amends the “Executive Reorganization Act,” Section 9-1-5 NMSA 1978, relating to executive agency secretary duties and general powers, requiring state department secretaries to develop and implement departmental language access plans to ensure individuals with limited English proficiency can access state programs.

The effective date of this bill is July 1, 2022.

FISCAL IMPLICATIONS

DFA notes the costs of implementing ongoing activities will vary by agency and, currently, federal funding to programs operated by Department of Health (DOH) and Human Services Department (HSD) already direct spending for multilingual outreach. DFA notes a potential budget impact of \$25 thousand to \$42 thousand from the general fund annually in FY24 for implementation of the bill.

Budget impact will be greater for smaller agencies who will need to redirect operating funds to meet the provisions of this bill, including the requirement to hire translation and interpreter services. Larger agencies may be able to absorb the cost of conducting needs assessments and developing a plan but the bill does not provide additional funding to purchase the required services or to hire the needed bilingual staff at each individual agency.

As written, Department of Workforce Solutions (DWS) and Aging and Long Term Services Department (ALTSD) note that it is unclear if DFA will help to fund other agency language access plans or if each agency must develop its own plan using its own funds. Additional funding may be needed to develop and implement the plans depending on the language needs of the constituency or the administrative capacities of each state executive agency.

Agencies noted additional operating budget impact related to the administrative capacity needed to implement the provisions in HB 22. For instance, HSD notes the need for an estimated 0.5 FTE to meet the provisions of the bill at a cost of \$40,700 or \$20,400 from general fund revenues per year. DOH estimates the need for a full-time equivalent employee, estimating a total three year cost of \$1.4 million, including \$624 thousand to meet the bill’s requirement for competitive salaries for multilingual staff by providing a \$1-an-hour salary differential for approximately 300 frontline staff at DOH. Finally, Early Childhood Education and Care Department (ECECD) noted the need for additional personnel costs for implementing the bill, totaling \$88.7 thousand per year for one additional FTE.

SIGNIFICANT ISSUES

While the bill requires the DFA secretary to implement language access plans for state programs, which should help improve uptake of state programs for those with limited English proficiency, the bill does not specify what programs are to be included in the implementation of the language access plans, what languages should be addressed, nor does it define a “state program” or “meaningful access.” The bill also does not specify if federal programs are included.

Some agencies report that they have existing language access plans, and it is unclear whether these plans would serve the purpose of this bill or if new plans must be developed. HSD for

instance currently has to abide by federal requirements for funding received from the federal government that already require the agency to provide “meaningful” access to programs administered by the department. HSD also notes current requirements for providing access regardless of English language status outlined in Executive Order 13166, Title VI of the Civil Rights Act of 1964, and Section 1557 of the Affordable Care Act (Section 1557).

PERFORMANCE IMPLICATIONS

HB22 could improve access to those with limited English proficiency by ensuring access to state programs, improving the performance of agencies with such programs. Individuals with low English proficiency, as noted by DOH, can experience diminished access to health care, including obtaining preventive and primary care services or even health insurance coverage. Providing access in other languages may improve outcomes related to the social determinants of health if the provisions in HB22 result in increased uptake of state programs.

ADMINISTRATIVE IMPLICATIONS

Ensuring that language access plans for all state executive agencies meet the provisions in HB22 may be difficult and could require additional administrative workload in order to develop, implement, and report on progress of such plans. Additional FTE may be required in the participating agencies, as noted in the fiscal implications section.

Additionally, HB22 requires an annual public assessment of the needs of the limited English proficiency population but does not provide guidance as to how this assessment will be completed, who is responsible for completing the assessment, or what specific information should be included within the assessment.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates Senate Bill 22.

TECHNICAL ISSUES

According to State Personnel Office (SPO), “creating a multilingual [multiple component of pay] or pay differential will require a change to the State Personnel Board Rules.” Salary structures will also have to be revisited to ensure implementation of this differential. For instance, because multilingual employees receive a \$0.20 pay differential at HSD, the agency would need to work with SPO to create a competitive salary structure for the additional multilingual employees needed to meet requirement of HB22.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without enactment of HB22, agencies with existing language access plans will continue to utilize them when implementing state programs but these plans will not be centralized in one place or monitored with any annual reporting requirements or review processes.

POSSIBLE QUESTIONS

Will this bill require a language access plan improving access to state programs for every person,

no matter the person's native language?

How many different languages must be made available?

Does the bill also require an access plan for people with functional illiteracy?

Are state agencies required to create a language access plan only for state programs providing critical services to New Mexico residents? Or is a language access plan required for every state agency activity?

JH/r/JH/acv