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FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/22

SPONSOR Lujan/Herndon LAST UPDATED _____ HB 126

SHORT TITLE State Personnel Diversity Act SB _____

ANALYST Jorgensen

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		
	\$250.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown	Unknown			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
State Personnel Office (SPO)

SUMMARY

Synopsis of Bill

House Bill 126 (HB126) creates the position of Chief Diversity Officer (CDO) at SPO. The CDO will lead development of proactive diversity, equality, equity, and inclusion initiatives and serve as a resource to other agencies for trainings and advise agencies on questions of diversity and inclusion.

The CDO is tasked with conducting an annual evaluation of race as it relates to hiring, promotion, retention, and pay as well as to conduct analysis of state government employment data sets or race and track progress toward ending institutional racism. HB126 mandates the CDO track progress by identifying a set of strategic metrics and oversee the establishment of agency strategic plans around diversity and inclusion that contain goals for the agency.

The bill further requires each state agency to designate a diversity and inclusion liaison who will collaborate with the CDO. The agency diversity liaisons shall be responsible for gathering data and information required by the CDO and shall participate in a “workforce diversity and inclusion council.”

HB126 requires each state agency to submit an annual report including data on diversity and inclusion, an assessment of the agencies’ trainings and hiring policies, as well as recommendations for using data-driven approaches toward advancing solutions for problems identified and proactive measures addressing diversity, equity, and inclusion in the workforce. HB126 also requires the head of each state agency to develop and maintain a comprehensive diversity, equity, and inclusion strategic plan in coordination with the CDO and the diversity and inclusion liaison for that agency and the council.

HB126 appropriates \$250 thousand from the general fund to SPO to support the creation of the CDO.

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

FISCAL IMPLICATIONS

The appropriation of \$250 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2023 shall revert to the general fund.

In addition to the creation of the CDO position, HB126 requires all state agencies to designate a diversity and inclusion liaison, gather and track data related to equity and inclusion, and produce an annual report. It is unclear what the additional costs in implementation of HB126 will be for agencies. For this reason, the fiscal impact of HB126 is unknown.

SIGNIFICANT ISSUES

SPO notes:

HB126 provides a number of key definitions, but a definition of “demographic data” might also be useful.

While HB126 designates the CDO as a classified position within SPO, it also states the CDO shall be hired by and serve at the pleasure of the State Personnel Director. This is a contradiction. A State of New Mexico employee can either be part of the classified service and terminated only for just cause, or be part of the exempt service and terminable at will, but not both. Along these same lines, the bill establishes the background, education, and experience requirements for the CDO position, but the State Personnel Board is responsible for adopting the minimum and recommended qualifications for all classified State employee positions.

HB126 requires the CDO to “ensure that all state agencies maintain compliance with all relevant and applicable laws and rules,” but this gives the CDO unnecessarily broad responsibilities. Respectfully, it would be more fitting for the CDO to “*consult* with state

agencies concerning compliance with laws and rules *relevant to DEI efforts.*” This would better reflect the reality that state agencies are each individually responsible for their own compliance with laws and regulations and that the CDO will be a subject matter expert in the areas of DEI, rather than the universe of laws and rules applicable to each agency.

HB126 requires the CDO to “have full access to SPO's human resource management systems,” but “access to SPO’s human resources management systems *necessary to carry out the requirements of the Act*” would be more appropriate. For example, while the CDO might need access to aggregated State employee race and gender data, the CDO would not need access to State employee Social Security numbers, home addresses, or time sheet data.

HB126 requires each state agency to include in its annual report to the CDO “an assessment of the agency’s compliance with relevant elements identified by the United States equal employment opportunity commission,” but does not make clear the relevant elements being referenced.

CJ/acv