

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>HJC</u> SHORT TITLE <u>Freight Locomotive Personnel Requirements</u>	LAST UPDATED <u>3/10/2023</u> ORIGINAL DATE <u>1/25/2023</u> BILL NUMBER <u>CS/House Bill 105/HJCS/aHF#1</u> ANALYST <u>Hanika-Ortiz</u>
--	---

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Workforce Solutions Department (WSD)
 New Mexico Department of Transportation (NMDOT)

SUMMARY

Synopsis of HFI#1 Amendment to the House Judiciary Committee Substitute for House Bill 105

The House floor amendment to the House Judiciary Committee substitute for House Bill 105 strikes the penalty section of the bill that subjected a railroad or railroad supervisor to civil penalties for violating crew size requirements.

Synopsis of Original HJC Substitute for House Bill 105

The House Judiciary Committee Substitute for House Bill 105 (HB105/HJCS) adds two new sections to Chapter 63, Article 3 NMSA 1978 and amends Section 63-2-2 NMSA 1978. The first new section defines a “class 1 railroad” and “class 2 railroad” according to federal law and regulation; “crew” to mean a qualified engineer or conductor; “helper” to mean a railway locomotive that assists a train to climb a gradient; and “hostling” to mean the act of shuttling a locomotive to the engine house and back. The second new section requires class 1 and class 2 railroads to operate freight trains with no less than two crew members. There are exceptions in the bill for certain engine moves, or as otherwise provided by federal law or regulation.

Lastly, HB105/HJCS subjects a railroad or railroad supervisor to a civil penalty of up to \$1

thousand for the first violation and of up to \$5 thousand for each subsequent violation. This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

No fiscal implications for NMDOT.

SIGNIFICANT ISSUES

HB105/HJCS seeks to establish safe minimum requirements for the size of train crews in New Mexico, depending on the type of operation.

NMDOT notes crew sizes are currently defined by each railroads' operating rules and terms of labor agreements with unions. At this time, there are no class 2 railroads operating in the state.

PERFORMANCE IMPLICATIONS

HB105/HJCS currently states the two-person crew requirement would not apply if there is a federal law or regulation in place. NMDOT reports there are no federal laws or regulations mandating crew size for trains. On July 28, 2022, the Federal Railroad Administration (FRA) published a notice of proposed rulemaking (NPRM) to establish minimum crew sizes for all railroads. When this FRA rule is finalized, it would preempt any statutes by individual states establishing crew size.

OTHER SUBSTANTIVE ISSUES

If HB105/HJCS is enacted and no federal rule is adopted establishing minimum crew size, NMDOT is concerned that 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.

OTHER SUBSTANTIVE ISSUES

Of particular concern to FRA has been the patchwork of state laws regulating crew size. In response, FRA's proposed regulations include a minimum requirement of two crewmembers for all railroad operations, with exceptions for operations that do not pose significant safety risks to railroad employees, the public, or the environment. The proposed rule would also establish minimum requirements for the location of crewmembers on a moving train and promote safe and effective teamwork. FRA is also proposing a special approval procedure to allow railroads to petition FRA to continue legacy operations with one-person train crews and allow any railroad to petition FRA for approval to initiate a new train operation with fewer than two crewmembers.