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FISCAL IMPACT REPORT

SPONSOR <u>Ortez/Romero, A/Hamblen/Wirth</u>	LAST UPDATED <u>02/27/2023</u>	
	ORIGINAL DATE <u>02/09/2023</u>	
	BILL <u>House Bill</u>	
SHORT TITLE <u>Expand Human Rights Act Scope</u>	NUMBER <u>207/aHJC</u>	
	ANALYST <u>Chilton</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$300.0	\$300.0	\$600.0	Recurring	General Fund

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

Partially conflicts with Senate Bill 226.

Sources of Information

LFC Files

Responses Received From

Workforce Solutions Department (WSD)
Office of the Attorney General (NMAG)

No Response Received

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of HJC Amendment to House Bill 207

The House Judiciary Committee amendment strikes the word “local” as in “state or any local public body” from the definition of “governmental entity,” but leaves it in the next definition, that of “public body, leaving the meaning of the definitions unchanged, but reducing duplicative wording.

Synopsis of Original House Bill 207

House Bill 207 makes changes to the Human Rights Act (Section 28-1 NMSA 1978) to add government agencies as among those who cannot discriminate against a person based on a wide variety of personal characteristics. Gender identity and gender are among those factors, gender being added in several places in this bill.

Section 1 amends the definitions section of the act to add definitions of “public contractor” and “political subdivision.” It also adjusts the definition of the term “physical or mental handicap” to

make it more modern. It adds new definitions of “sex,” “sexual orientation,” “gender identity,” and “gender.” “Gender identity” is defined as a person’s self-perception, whether or not it is the same as a person’s physical characteristics or assigned gender at birth. “Gender,” on the other hand, refers to what others might assume based on a person’s physical characteristics, appearance or behavior. It also defines “state” broadly, including its agencies, departments and boards, “public body” as a part of state or local government and any public organization receiving state funds (e.g., school districts, special tax districts).

Section 2 amends Section 28-1-7 NMSA 1978, which is entitled “Unlawful Discriminatory Practice.” In several places in its text, the word “handicap” is replaced with “disability,” and adds “gender” to the list of attributes which an employment agency or an institution providing funding for housing cannot use to discriminate against a person. Like financial institutions and employment agencies, government entities and public contractors cannot discriminate against a person on the bases of sex, race, ethnicity, sexual orientation, gender, gender identity, presence of a physical or mental disability, pregnancy, childbirth or other condition related to pregnancy or childbirth, serious medical condition or spousal affiliation, according to a new Section 1M added to the act.

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

There is no appropriation in House Bill 207. WSD expects a considerable increase in complaints filed under the new provisions in the Human Rights Act, estimating a cost of three FTEs and \$300 thousand annually, though this may be an over estimate.

SIGNIFICANT ISSUES

According to a 2021 National Public Radio (NPR) story, “Issues of equality and acceptance of transgender and nonbinary people — along with challenges to their rights — have become a major topic in the headlines. These issues can involve words and ideas and identities that are new to some...”

“Proper use of gender identity terms, including pronouns, is a crucial way to signal courtesy and acceptance. Alex Schmider, associate director of transgender representation at GLAAD [the Gay & Lesbian Alliance Against Defamation], compares using someone’s correct pronouns to pronouncing their name correctly – ‘a way of respecting them and referring to them in a way that’s consistent and true to who they are.’”

In its glossary of gender identity terms, NPR includes the following, which appear to be similar to the definitions in this bill:

Gender is often defined as a social construct of norms, behaviors and roles that varies between societies and over time. Gender is often categorized as male, female or nonbinary.

Gender identity is one’s own internal sense of self and their gender, whether that is man, woman, neither or both. Unlike gender expression, gender identity is not outwardly visible to others.

CONFLICT

As noted by NMAG, Senate Bill 226 and the current bill, House Bill 207, contain different definitions of the term “gender identity”, which NMAG believes should be reconciled.

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