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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Lujan</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>2/20/2023</u>
<b>SHORT TITLE</b> <u>Workers' Comp Violation Penalties</u>	<b>BILL NUMBER</b> <u>House Bill 329</u>
	<b>ANALYST</b> <u>Hanika-Ortiz</u>

### REVENUE\* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
\$0.0	\$20.0	\$20.0	Recurring	General Fund
\$0.0	\$22.0	\$30.0	Recurring	Workers' Compensation Administration Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Responses Received From

Workers' Compensation Administration (WCA)

## SUMMARY

### Synopsis of House Bill 239

House Bill 329 (HB329) amends Section 52-1-61 NMSA 1978 to increase the maximum penalty for failing to file a report or for violating the Workers' Compensation Act to not more than \$2,500 for each occurrence, from not more than \$1,000 for each occurrence.

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

WCA's enforcement bureau reported that for FY22, the number of compliance and enforcement cases prosecuted totaled 24; and fines collected totaled \$15 thousand. The revenue table estimates 20 compliance and five enforcement cases in FY24, and estimates a slightly higher number in FY25.

WCA says that fines up to \$1,000 are assessed against cases where businesses failed to obtain

workers' compensation insurance (compliance) as well as cases involving fraud, bad faith, and unfair claims practices (enforcement). Fines up to \$5,000 are assessed against businesses that do not file a safety inspection affidavit (administrative). Statute allows a minimum fine of \$25.

Fines for compliance and safety cases are deposited in the general fund; whereas administrative fines for enforcement cases are deposited in the workers' compensation administrative fund.

## **SIGNIFICANT ISSUES**

The bill anticipates that increasing penalties will increase employers' compliance with mandatory workers' compensation insurance requirements.

For compliance cases, WCA's experience has been that it is cheaper for a business to pay the fine than obtain workers' compensation insurance. If the bill becomes law, the director will continue to have discretionary authority to impose a fine up to but not exceeding the maximum fine amount.

WCA noted that of the 20 compliance cases prosecuted by its enforcement bureau in 2022, six businesses, or 30 percent, paid the fine, and continued to operate without the required insurance.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Businesses may continue to fail to obtain the required insurance if penalties are not increased.

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