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FISCAL IMPACT REPORT

SPONSOR Grubestic DATE TYPED 3/09/05 HB _____

SHORT TITLE Hoisting Operator Licensing Requirements SB 228/aSPAC/aSFC/aHLHRC

ANALYST Ford

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$20.62*			Recurring	Hoisting Operators Safety Act Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Narrative

REVENUE

Estimated Revenue		Subsequent Years Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY 07	FY 08		
	\$20.6*	\$1.9*	\$20.6*	Recurring	Hoisting Operators Safety Act Fund

(Parenthesis () Indicate Revenue Decreases)

*See Narrative

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of HLHRC Amendment

The House Labor and Human Resources Committee amendment adds a provision allowing a hoisting operator to operate without a license for one year if s/he has completed an in-house training course approved by the hoisting operators licensure board. One year after successful completion of an in-house training course, the person must be licensed, except that the written examination requirement shall be waived.

The amendment also adds a provision specifying that the operator's employer is subject to applicable regulations controlling the use and operation of cranes as promulgated by the occupational safety and health administration, the mine safety and health administration or the American national standards institute.

The amendment delays the enactment date until July 1, 2006. Finally, the amendment makes typographical corrections.

Synopsis of SFC Amendment

The Senate Finance Committee amendment adds, on page 3, line 5, after "council" the phrase "with consideration being given to geographical representation." The appropriation and intent of the bill remain unchanged.

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment exempts operators of equipment listed in Section 60-15-3 NMSA 1978 from the requirement that operators be licensed under the Hoisting Operators Safety Act. This exemption includes crane or hoisting equipment used in construction, demolition or excavation associated with:

1. natural gas gather lines;
2. interstate transmission facilities and interstate natural gas facilities subject to the federal Natural Gas
3. interstate pipeline facilities and carbon dioxide pipeline facilities subject to the federal Hazardous Liquid Pipeline Safety Act of 1979; Pipeline Safety Act of 1968 and its amendments;
4. gas and oil pipeline facilities subject to the Pipeline Safety Act [70-3-11 NMSA 1978];
5. mining, milling or smelting operations subject to mine safety and health administration regulations or occupational safety and health administration regulations;
6. prefabricated control rooms of natural gas, oil or carbon dioxide pipeline transmission facilities;
7. oil and gas exploration, production or drilling;
8. rural electric cooperative and electric, gas and water utility operations;
9. commercial sign operations;
10. the construction or operation of railroads; or
11. the installation and maintenance of telephone or television cable

Synopsis of Original Bill

Senate Bill 228 creates the Hoisting Operators Safety Act Fund and appropriates money from the fund to the Regulation and Licensing Department for the purpose of implementing the Hoisting Operators Safety Act.

Senate Bill 228 requires all hoisting operators to be licensed by the state, removing the current exemption that allows operators to be trained by their employers and avoid licensure.

Finally, Senate Bill 228 adds two more members to the hoisting operators licensure examining council, one of whom shall be a representative of organized labor and the other a public member who is not a licensed hoisting operator.

Significant Issues

According to the RLD, there are 300 hoisting operators, only 50 of whom are licensed by the state. Currently, companies are providing training for their employees and then declaring them qualified to operate hoisting equipment without testing or licensure. These operators must repeat the training should they move to another employer. RLD states that there is no uniformity of training. This legislation would require that every hoisting operator be trained and licensed following the uniform requirements established by the state.

FISCAL IMPLICATIONS

The current fee for a license is \$75 and the license lasts for two years. Senate Bill 228 creates a new fund and dedicates license fee revenue to that fund. Currently, there are 50 individuals who are licensed for two years. RLD estimates the bill would cause another 250 individuals to be licensed. The bill takes effect on July 1, 2005; thus, the 250 unlicensed operators would apply for a license in FY 06 (assuming full compliance with the new law). In addition, approximately half of the currently licensed operators would apply for a license in FY 06. This would result in 275 individuals paying the \$75 fee in FY 06 for a total of \$20.625 thousand. In FY 07, the remaining operators would apply for renewal, generating approximately \$1.875 thousand. In subsequent years, the revenue generated would be the same as the revenue two years prior, with additional revenue from any growth.

The appropriation contained in this bill is a recurring expense to the hoisting operators safety act fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to any other fund.

Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

TECHNICAL ISSUES

The bill does not provide any grace period for operators who are currently exempt from the licensure requirements. A person who operates a crane without a hoisting operator's license is guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$300 or by imprisonment of not more than six months or both. An employer or representative who knowingly, willingly or intentionally allows a person not licensed under the Hoisting Operators Safety Act to operate hoisting equipment is guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or imprisonment of not more than six months or both.

An amendment to allow current operators some amount of time to complete the training and testing required for a license may be appropriate.

OTHER SUBSTANTIVE ISSUES

RLD indicates that the revenue from the license fees will be used to provide for a part-time ad-

ministrative support staff to inspect construction sites to insure that hoisting operators are properly licensed.

EF/yr:sb