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FISCAL IMPACT REPORT

ORIGINAL DATE 1/19/08
 SPONSOR Carraro LAST UPDATED 1/22/08 HB
 SHORT TITLE Open Conference Committees To Public SB 205
 ANALYST Wilson

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|-------|-------------------------|------------------|
| FY08 | FY09 | | |
| | \$0.1 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 205 will amend NMSA Section 10-15-2 of the Open Meetings Act to:

- require "reasonable notice" of meetings to be given to the public via publication on the daily calendars or by the presiding officer in each house at the time the meeting is scheduled;
- remove the exemption from discussion by a legislative committee or policymaking body in an open meeting for matters relating to any bill, resolution or other legislative matter not yet presented to either house of the legislature or general appropriation bills;
- require conference committees to consist of a proportionate membership from the majority and minority parties, provided that there shall be at least one member from each minority party. The conference committee shall not be subject to provisions of Section 10-15-3 NMSA 1978 which refers to the Open Meetings Act, but the conference committee shall be open to the public for public observation but not for public participation;
- add a "conference committee" to the definition of a meeting as used in this act.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

Proponents of the bill may cite the mission statement of the Open Meetings Act that say a representative government is dependent upon an informed electorate and all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them.

Proponents may also cite to Article IV, Section 12 of the state constitution requiring all sessions of each house shall be public to mean that the legislature should not be holding closed conference committee meetings, or closed legislative committee meetings on matters relating to bills not yet presented to either house or general appropriation bills.

Opponents of the bill may cite to a precept of constitutional law that one legislature cannot bind another (with a few exceptions relating to compacts and contracts), and the legislative branch is free to conduct its own internal proceedings without interference from the courts. Given these precepts, it is unclear whether state laws governing the conduct of legislative proceedings are binding on future legislatures, or even the legislative body enacting the law. In addition, opponents may point out that the legislature has already adopted rules governing the conduct of its meetings which appear to conflict with this bill and other provisions in the Open Meetings Act.

The AGO notes the bill's provisions making conference committee meetings open to the public are undercut by the exemption from the enforcement provisions of the Open Meetings Act. Therefore, if there is a violation, there can be no enforcement action against the conference committee members.

ADMINISTRATIVE IMPLICATIONS

If there are additional enforcement actions, the AGO or a local district attorney office may need to commit additional resources and staffing to this issue.

POSSIBLE QUESTIONS

This bill exempts conference committees from many provisions of the Open Meetings Act, but requires the conference committee to be open to the public for public observation but not for public participation. Does this mean that the public will get notice of the meetings and be allowed to attend?

DW/nt