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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/09

SPONSOR Ortiz y Pino LAST UPDATED _____ HB _____

SHORT TITLE Access to Quality Child Care Workforce Act SB 380

ANALYST Peery-Galon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non- Rec	Fund Affected
Total		Indeterminate but Substantial	Indeterminate but Substantial	Indeterminate but Substantial	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
State Personnel Office (SPO)

No Responses Received From

Workforce Solutions Department
Association of Counties
New Mexico Municipal League

SUMMARY

Synopsis of Bill

Senate Bill 380 provides for collective bargaining and representation of all caregivers within a licensed child care center that receives state subsidy. It authorizes licensed child care centers to organize as a unit, defined as all caregivers employed in the center as well as the director, and collectively bargain with the Children, Youth and Families Department regarding issues such as: the stability, funding and operation of the child care program; expansion of quality child care; improvement of working conditions; state subsidies; health and retirement benefits and payments; professional development and training; committees; and grievance procedures. Children, Youth and Families Department would be responsible for deducting a percentage of the center's monthly subsidy payment and send that percentage to the designated center's representative.

FISCAL IMPLICATIONS

CYFD and SPO noted that child care caregivers are not public employees as defined in the Public Employees Bargaining Act (PEBA). Furthermore, as a state agency, CYFD does not qualify as an employer under the proposed legislation in reference to the PEBA definition of an employer. The collective bargaining activities outlined in the proposed legislation are described as being under the purview of the Public Employee Labor Relations Board. Although there are governmental entities that provide child care (e.g. the City of Santa Fe, University of New Mexico), all caregivers are employees of the child care center and none are employees of the state of New Mexico.

CYFD and SPO noted Section 7 of the proposed legislation addresses the monthly payment of a bargaining unit representative. This payment is to be deducted from the child care subsidy payments due to providers. CYFD reported the responsibility would have to be added to department's payment system and so result in an unknown expenditure to upgrade information systems.

CYFD and SPO reported implementation of the proposed legislation would have significant, albeit presently unquantifiable implications and ramifications for CYFD. CYFD receives a fixed sum of money from state general fund and federal sources to provide child care subsidies to low income families, including and especially Temporary Assistance for Needy Families (TANF) recipients. Depending upon the amount of money received in each legislative session, a specific poverty level is determined for eligibility. At present, that level is 200 percent of the federal poverty level. An undefined increase in expenses negotiated through agreements with individual centers could potentially have the effect of drastically lowering that poverty level in order to fund it, and thereby reducing the number of families served.

SIGNIFICANT ISSUES

CYFD and SPO stated collective bargaining generally covers a worker's right to bargain with management over the terms of their employment relationship, most often their wages, hours and working conditions. Child care caregivers are not employees of the State; therefore, it is unclear how collective bargaining will protect and empower child care workers. For example, there is the potential that a center or unit would gain bargaining rights by having at least 50 percent of the caregivers (not including the owner/director) organize in order to become a bargaining unit. The department does not have the authority to negotiate salaries or benefits, for example, on behalf of the owner/director of the center. The relationship between licensed centers and the State is a contractual or quasi-contractual relationship and has traditionally been addressed through the public rule-making process and the public policy advocacy process.

CYFD and SPO noted the proposed legislation does not discuss the potential impact on parents that pay for their child's care without assistance from CYFD, or the co-payments that parents receiving child care subsidy must pay in addition to the subsidy payments made by the state. CYFD reported there are 692 licensed child care centers in New Mexico. Virtually all of these centers provide care for children receiving state subsidy at one time or another. The terms and conditions under which child care centers provide care is regulated in the New Mexico Administrative Code. These rules are subject to public rule-making and, under the proposed legislation, certain sections would be subject to negotiation with the labor organization.

CYFD and SPO stated under the proposed legislation, a bargaining unit is defined as a licensed

child care center that receives child care subsidy payments from the state. Potentially, the most significant implication is that the department could be negotiating 692 separate agreements at any given time. There is no assurance that any of these agreements would be regarding the same issues.

PERFORMANCE IMPLICATIONS

CYFD and SPO reported that CYFD has made a significant financial commitment over the past twenty years to quality improvement and has a performance measure related to increasing providers' quality level. The impact of the proposed legislation on those performance measures is unknown at this time.

ADMINISTRATIVE IMPLICATIONS

CYFD and SPO noted if passed, the proposed legislation will have an administrative impact on CYFD. The number of FTE and operating expenses that would be required to negotiate the potential 692 agreements is unknown. All costs are dependent upon the number of centers electing to become separate bargaining units.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 380 has a relationship to House Bill 245 that seeks to establish collective bargaining for home child care providers.

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