F I S C A L   I M P A C T   R E P O R T

SPONSOR HLC **ORIGINAL DATE** 02/26/13 **LAST UPDATED** **HB** 668/HLCS

SHORT TITLE PUBLIC PEACE, HEALTH, SAFETY & WELFARE **SB**

ANALYST Aledo-Sandoval

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$226.1	$226.1	$452.2	Recurring	Varies

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Previous Responses Received for HJR 6 From
Economic Development Department (EDD)
Workforce Solutions Department (WSD)
State Personnel Office (SPO)
Attorney General's Office (AGO)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

The House Labor and Human Resources Committee substitute for House Bill 668 (HB 668) requires the state minimum wage rates to increase beginning July 1, 2013 and each subsequent July 1, by the increase in the cost of living. The cost of living increase, or rate of inflation, would be determined by the percent increase of the consumer price index for all urban consumers published by the U.S. Department of Labor as of February of each year over the level as of February of the previous year.

HB 668 requires the Governor to publish by May 1 of each year the adjusted minimum wage rates that take effect on July 1. Also, the bill prohibits the adjusted rate from being adjusted downward as a result of a decrease in the cost of living.

FISCAL IMPLICATIONS

The Department of Finance and Administration (DFA) noted that in January, Moody's Analytics, a national, monthly forecasting service, estimated inflation growth to be 1.4 percent in the second quarter of CY2014 and an average of 1.3 percent for the same period in CY2015-2017. Assuming approval at the November 2013 general election, the current minimum wage rate of $7.50 per hour is estimated to increase to $7.60 in CY2014, $7.70 in CY2015, $7.80 in CY2016, and $7.90 in CY2017.

The State Personnel Office (SPO) indicates that there will be a cost to state government to implement the requirements of this bill provides the following example:

> Using the average CPI-U over the past 10 years of 2.8 percent, the state minimum wage will increase from $7.50 per hour to $7.71 per hour in year one. Currently 50 classified employees will fall below $7.71 per hour and the annualized salary cost (excluding benefits) to bring these employees to minimum is $21,500 (based 2,080 hour year). Currently, a total of 415 executive, legislative and judicial employees will fall below $7.71 per hour and the annualized salary cost (excluding benefits) to bring these employees to minimum is $180,600. The annualized cost with benefits is $180,600 x 1.2474 = $225,300. The second year increase, from $7.71 to $7.92 would require adjusting the salaries of 443 total employees and would result in a statewide cost of $181,200 x 1.2474 = $226,100. These increases would be recurring.

SIGNIFICANT ISSUES

According to the WSD, effective January 1, 2013, ten states have increased their hourly minimum wage. Here are the respective states and their new wage rates:

1. Arizona - $7.80
2. Colorado - $7.78
3. Florida - $7.79
4. Missouri - $7.35
5. Montana - $7.80
6. Ohio - $7.85
7. Oregon - $8.95
8. Rhode Island - $7.75
9. Vermont - $8.60
10. Washington - $9.19

The WSD's Wage and Hour Bureau enforces the Minimum Wage Act. The Bureau investigates and gathers data on wages hour issues to enforce compliance with the Act. The WSD also provided the following information:

> The Fair Labor Standards Act sets a federal minimum hourly rate ($7.25 per hour since 2009) for non-exempt employees, but states may enforce higher pay rates. If an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher of the two minimum wages.
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> There are ten states (AZ, CO, FL, MO, MT, NV, OH, OR, VT, and WA) that have increased minimum wage rates that are tied to the consumer price index. As a result of this linkage, the minimum wages in these states are normally increased each year, generally around January 1st of each year. Rhode Island's increase is provided by special legislation enacted in 2012 unrelated to the consumer price index. Meanwhile, Alabama,

> Louisiana, Mississippi, South Carolina, and Tennessee do not set state minimum wage standards. Employees in these states receive $7.25 per hour, the minimum hourly wage set by the federal Fair Labor Standards Act.

The following analysis was provided by the Economic Development Department (EDD):

> Mandating cost of living wage increases is well-intended in a state with a high percentage of residents living at or below the poverty level, but determining a single percentage wage increase that is appropriate in all regions of New Mexico presumes the state is not as diverse as the data indicates.
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> A single mandated percentage wage increase does not take into consideration the differences in wage levels paid by each industry and skill level. According to the Workforce Solutions Department (WSD), average weekly wages for the second quarter of 2012 in retail trade were $490 compared to $1,372 in the mining industry sector. Percentage increases will clearly impact higher paying industries at a disproportionate rate, providing a disincentive to pay higher wages.
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> Finally, mandating increases based on national data derived from urban areas and averaged over many categories of commodities and services is flawed in its assumption that we each have similar spending patterns, pay relatively equal prices for what we purchase and achieve fairly equal levels of income.

The DFA notes that minimum wage increases could be counterproductive to the bills intent citing that some studies have argued that increases in minimum wage lead to lower employment levels and that there is a larger negative employment effect in small counties and states with low average wages. The DFA also states that this proposal might deter business expansion or relocation to New Mexico. Conversely, the DFA adds that other studies claim that minimum wage increases lead to greater purchasing power and consumer demand, which leads to greater economic growth.

The SPO warns that as time goes on without adjusting salaries for all other employees, annual increases to the minimum wage would cause significant pay compression. The SPO contends that noticeable differences in pay rates should exist between jobs that are noticeably different based on job related criteria such as education, experience, and/or tenure.

PERFORMANCE IMPLICATIONS

The WSD states that HB 668 will have a relatively minimal impact on the agency. The WSD will have to update website information and any other publications which have a published minimum wage rate to reflect annual changes to the approved minimum wage rate. Also, the Department’s Wage and Hour Bureau will need to communicate any minimum wage rate changes to staff and constituents to address situations when a constituent files a wage claim against their employer if the claim includes any hourly wages impacted by the minimum wage rate change.

TECHNICAL ISSUES

According to the EDD, the U. S. Bureau of Labor Statistics publishes two cost of living increases each month representing cost of living changes over the last 12 months. One is seasonally adjusted and the other percentage is not seasonally adjusted. The bill does not specify which percentage will be the basis for the wage increase and the two numbers can vary significantly, as indicated by the most recent indexes released on January 16, 2013, based on December 2012 pricing increases over December 2011. The all items index increased 1.7 percent before seasonal adjustment. The increase after seasonal adjustment was zero, or unchanged.

The EDD also adds that the cost of living increase is measured in each major category of spending, and the roll-up of these categories determines the overall index. December data indicates an increase of 1.8 percent for food, 2.2 percent for shelter, and 3.7 percent for medical care (among many categories). The composite index does not take into consideration the differences in levels each consumer spends by category. For instance, families may spend a higher percentage on groceries and medical care than individuals, and workers who commute long distances to work spend more on gasoline than those who do not.

ADMINISTRATIVE IMPLICATIONS

The SPO asserts that if February data is used as the basis for the increased amount and published by May 1 of each year to become effective July 1 each year, there will not be sufficient time for the Legislature to provide increased funding to state agencies to pay for the mandated increases. February numbers are not published until March of each year – either after a 30-day session ends or close to the end of a 60 day session. Budget requests are due the “prior” September 1 of each year and the required amount is unknown at that time.

The SPO also points out that §50-4-22 NMSA 1978 would need to be amended each year.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state minimum wage rate will remain at $7.50 per hour.

MAS/svb