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FISCAL IMPACT REPORT

ORIGINAL DATE 02/20/13

SPONSOR Beffort LAST UPDATED _____ HB _____

SHORT TITLE School Employee Concealed Handguns SB 230

ANALYST Trowbridge

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 137, HB 114 and HB 77

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)
 Administrative Office of the Courts (AOC)
 Department of Health (DOH)
 Administrative Office of the District Attorneys (AODA)
 Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 230 (SB 230) enacts a new section of the Concealed Handgun Carry Act (“CHCA”), Section 29-19-1 NMSA 1978 et. seq., to permit a school to designate one of its employees to use the employee’s concealed handgun license to bring a concealed handgun onto the premises of the school.

SB 230 amends Section 29-19-8 NMSA 1978 to provide that nothing in the CHCA shall be construed as allowing a licensee in possession of a valid concealed handgun license to carry a concealed handgun on the premises of a preschool, except as provided by this law.

SB 230 amends Section 30-7-2.1 NMSA 1978 to create an additional exception to the fourth degree felony crime of unlawful carrying of a deadly weapon on school premises for a school employee authorized to carry a concealed handgun under this law. The effective date of the Act is July 1, 2013.

FISCAL IMPLICATIONS

The Public Education Department (PED) would be required to amend the Safe School Plan Guidance Document pertaining to Section III –Response, Critical Incident Management Plan and communicate changes to existing Guidance Document (<http://ped.state.nm.us/sfsb/tools/>) to all public schools and charter schools. This could be done with existing resources.

The Administrative Office of the Courts (AOC) states that there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact would be proportional to the enforcement of this law, and commenced prosecutions. While 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, the change proposed by SB 230 is less restrictive than current law and could result in fewer enforcement actions. Conversely, though, if more firearms-related incidents arise as a result of allowing a school employee to carry a concealed handgun into a school, those incidents could end up being adjudicated and/or settled in the courts.

SIGNIFICANT ISSUES

The Administrative Office of the District Attorneys (AODA) indicates the bill permits “a school” to designate an employee, who has a concealed handgun license, to bring their concealed handgun onto the premises of the school. There is no other guidance on who should be selected and no guidance on what authority they may have to use their handgun on school premises. Selecting just one person to have a concealed handgun may not be appropriate in an all schools, since some school campuses have large campuses, multiple building and large populations.

The AODA states that there may be some liability questions for schools that designate an employee to carry a concealed handgun if this law is adopted. Although instruction on “techniques for avoiding a criminal attack and how to control a violent confrontation (and) techniques for nonviolent dispute resolution” (See, Section 29-19-7[A][1]--[7], NMSA 1978) is required, the total training required to obtain a concealed carry license can be as little as 15 hours, which is also inclusive of classroom instruction and range instruction on the law and safe usage of firearms and live shooting of a handgun on a range.

The bill would also amend the Concealed Handgun Carry Act to permit someone to carry a concealed handgun on the premises of a preschool, (See, Section 29-19-8[C], NMSA 1978) if they are designated to do so. The AODA indicates that although the prohibition against carrying a concealed handgun at a preschool is present in the existing law, “preschool” is not defined in the concealed carry law and appears outside the definition of “school premises” in the statute prohibiting deadly weapons on school premises. (See, Section 30-7-2.1[B], NMSA 1978. School premises means “the buildings and grounds including playgrounds, playing fields and parking areas and any school bus of any public elementary, secondary, junior high or high school in or on which school or school-related activities are being operated under the supervision of a local school board”, or “any other public buildings or grounds, including playing fields and parking areas that not public school property, in or on which public school-related and sanctioned activities are being performed.”) Preschool is generally considered to be for pre-kindergarten age children who are, ordinarily, not at a school premise noted above. (See, e.g. Section 22-8-19.1, NMSA 1978, CYFD shall fund preschools programs in selected schools districts for children aged zero to five years old, and Section 32A-23-4, NMSA 1978. CYFD

and the public education program shall cooperate in development of voluntary pre-kindergarten programs for preschool children.) Many preschool programs are privately operated and are not uniform in program content or staffing.

The AODA maintains the bill is contingent on an additional exception to the prohibition of deadly weapons on school premises (See, Section 30-7-2.1[A], NMSA 1978) also being passed and legislation to do that is part of this bill.

The PED states that SB 230 appears to contradict Section 22-5-4.7 NMSA 1978, which supports the longstanding concept that schools should be weapons-free, although this provision specifically is designed to keep students from possessing weapons on school property.

SB 230 is contrary to 20 US Code Section 7151 of the Gun-Free Schools Act, which supports the longstanding concept that schools must be weapons-free.

SB 230 could be contrary to section 18 US Code Section 922(q) that makes it a federal offense for individuals to carry a weapon in a school zone except for authorized persons as designated in the federal statute. Any changes as proposed in SB 230 would need to be in accordance with federal statute.

It appears that by allowing an employee to use a private concealed carry permit to bring a personal weapon onto school grounds to presumably be used in the event of an armed attack, opens the employee and the district to significant liability by granting police powers to a private citizen whose primary job most probably is other than security.

A properly trained law enforcement officer would be better suited for this type of duty and would be commissioned to carry a deadly weapon as part of his or her duty responsibilities.

The Department of Health (DOH) indicates that firearms are a significant cause of injuries and death in New Mexico. According to the Centers for Disease Control and Prevention (CDC), New Mexico had the 7th highest rate of firearm deaths in the nation among the 50 states and Washington, D.C. (http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html).

The DOH further notes (citing <http://ibis.health.state.nm.us/>) that in 2011, there were 303 firearm deaths in New Mexico, an overall age-adjusted death rate of 14.6 per 100,000 population. Additionally, from 2007-2011, intentional, self-inflicted injuries (suicide) accounted for 66.7 percent of firearm deaths, followed by assaults/homicides (27.7 percent) and legal intervention deaths (2.4 percent).

Additionally, from 2007-2011, there were also 584 hospital discharges for firearm injuries. Forty-three percent of all firearm hospitalizations were secondary to assault injuries, followed by unintentional or accidental firearm injuries (34.6 percent). The male firearm injury hospital discharge rate was ten times higher than the female rate.

PERFORMANCE IMPLICATIONS

The AOC reports that the courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

The PED would need to amend the Safe School Plan Guidance Document pertaining to Section III –Response, Critical Incident Management Plan to be in compliance to SB 230 by July 1, 2013. All schools would need to amend the School-level Safety Plans to be in compliance to SB 230 by July 1, 2013

(http://ped.state.nm.us/sfsb/tools/dl10/04%20SS%20Plan%20Sect%20III_%20Response%20template.pdf).

RELATIONSHIP

SB 230 relates to HB 137, Concealed Guns in Liquor Establishments, which relates to firearms and allows the carrying of concealed handguns in licensed liquor establishments. It also relates to HB 114, which would prohibit the enforcement of federal gun laws and to HB 77, Firearms Transfer Act, which relates to firearms and creates the Firearm Transfer Act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Concealed Handgun Carry Act would not be amended.

TT/svb