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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13

SPONSOR Rodriguez LAST UPDATED 02/15/13 HB \_\_\_\_\_

SHORT TITLE Assistance Animal Act Changes SB 320/aSPAC

ANALYST Geisler

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		.01, Minimal				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Governor’s Commission on Disability (GCD)  
 Administrative Office of District Attorneys (AODA)  
 Public Defender Department (PDD)  
 Attorney General (AG)

### SUMMARY

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendments to Senate Bill 320 add a subsection header to Section 6 of the Service Animal Act (Prohibition of False Presentation of Animal As a Qualified Service Animal) and in addition to the misdemeanor penalty for false presentation of animal adds language allowing for other remedies other available pursuant to common law and NMSA 1978.

#### Synopsis of Original Bill

Senate Bill 320 renames the Assistance Animal Act as the Service Animal Act, and defines a “qualified service animal” to mean a “qualified service dog” or “qualified service miniature horse” that has been trained to provide assistance to an individual with a disability. A person with a disability who uses a qualified service animal must be admitted to public buildings, public accommodations and common carriers if the service animal is under control. A disabled person cannot be required to pay additional charges for his/her animal but can be liable for damage done by the animal if a non-disabled person would also be so liable. A public accommodation or

common carrier is not required to admit an individual with a disability who uses a qualified service animal if the individual's use of the animal poses a direct threat of significant harm to the health or safety of others. It is a misdemeanor to violate the act and to the extent applicable, other remedies also apply. It is also unlawful for a person, with no legitimate reason, to intentionally interfere with the use of a qualified service animal by harassing or obstructing the owner, trainer or handler of the service animal or to intentionally fail or refuse to control a person's unrestrained animal, which animal similarly interferes. A new section is added, which states that a person shall not knowingly present any animal, as a qualified service animal that does not qualify as a service animal. This qualifies as a misdemeanor offense.

### **FISCAL IMPLICATIONS**

AODA and the Public Defender do not anticipate major increases in workload as a result of SB 320, although a misdemeanor charge has been added for knowingly presenting an animal as a service animal that does not qualify as a service animal.

### **SIGNIFICANT ISSUES**

The Governor's Commission on Disability (GCD) notes that SB 320 aligns protections for persons with disabilities, who use service animals, with the federal Americans with Disabilities with Act. GCD notes it averages about four calls a day regarding issues with service animals. SB320 clarifies the current statute so there is less confusion. Of note:

- Only dogs and miniature horses are covered under the ADA as service animals;
- Businesses and organizations that service the public must allow people with disabilities to bring a service animal into all areas where customers are normally allowed;
- In the case of an emergency, accommodations shall be made for a service animal to remain or be reunited with the owner, trainer or handler;
- No charges shall be allowed for a service animal; but the owner may be liable for any damage done by the service animal;
- It will be unlawful for a person with a disability to be interfered with, harassed or obstructed in the use of a service animal;
- The Service Animal Act prohibits a person from representing an animal as a service animal when knowingly the animal is not;
- A person who violates the Service Animal Act and is convicted may be guilty of a misdemeanor and upon conviction can be jailed up to a year and/or fined up to \$1,000.

Qualified service animal does not include a pet, an emotional support animal, a comfort animal or a therapy animal. These animals do not perform tasks that assist people with disabilities but do provide companionship, relieve loneliness, help with certain phobias as well as being a motivation tool. This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act, however an assistance animal is not covered under the ADA.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

GCD notes that failure to enact SB 320 will lead to continued confusion and misunderstanding on the law and people with disabilities, who use service animals, will continue to be treated with disrespect, harassed or obstructed.