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FISCAL IMPACT REPORT

ORIGINAL DATE 02/12/13
 SPONSOR SCORC LAST UPDATED 02/25/13 HB _____
 SHORT TITLE Motor Carrier Quality of Service Standards SB 328/SCORCS
 ANALYST Evans

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
\$0.0	***	***	Recurring	Road Fund

(Parenthesis () Indicate Revenue Decreases)

*** Indeterminate, See Fiscal Implications

The committee substitute for SB 328 duplicates the committee substitute for HB 194 titled “Relating to Motor Carriers; Amending the Motor Carrier Act.”

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Attorney General’s Office (AGO)
- Administrative Office of the Courts (AOC)
- Department of Transportation (DOT)
- Department of Public Safety (DPS)
- Public Regulation Commission (PRC)
- Think New Mexico

SUMMARY

Synopsis of Bill

The Senate Corporations and Transportation Committee substitute for Senate Bill 328 (SB 328)

would amend several provisions of the Motor Carrier Act (“Act”) to clarify terms, simplify and clarify administrative procedures, and provide for penalties under the Unfair Trade Practices Act. This bill will bring New Mexico into compliance with federal regulations; ensuring federal funds are not cut (see Fiscal Implications). SB 328 amends Section 65-2A-2, describing the Act; it states that the Act’s purpose is to “provide for uniform licensing and regulation of motor carriers for purposes of financial responsibility, public safety, and consumer interest, protection and information.”

SB 328 implements a new concept of “full service” passenger service whereby municipal taxicab, and scheduled shuttle services, in return for providing 24-hour, 7 days a week, 365 days a year centrally dispatched service to all endorsed territory (applicable to municipal taxicab service); and 24-hour, 365 days a year service regardless of the number of passengers (applicable to scheduled shuttle service), must provide service to all comers and in return, during the application process, a protester/intervener must file a written protest and has the burden of proving at a hearing potential impairment or adverse impact on its existing full-service operation by the applicant. Ambulances services retain full regulated monopoly protection. SB 328 changes the requirement that motor carriers of persons, except ambulances, and household goods movers prove “fit, willing, and able” to instead prove “fit and able”. “Fitness” would no longer have a financial component but would only require compliance with law and “able” is limited to the provision of continuous and adequate service.

SB 328 changes the PRC’s rate regulation from “just and reasonable” rates as determined by the PRC to “file and use” except for ambulances, nonconsensual towing and full-service carriers. SB 328 would not allow higher rates for a full-service carrier or a towing service providing nonconsensual tows until approved by the PRC as reasonable after a streamlined hearing if such a hearing is requested by either the applicant, PRC’s Transportation Division, or if ordered in the discretion of the PRC. If no such hearing is requested during the 20 day notice period, the PRC shall grant the tariff if the tariff application complies with the provisions of the Motor Carrier Act and the rules of the PRC.

SB 328 imposes a new requirement for the lease or transfer of a certificate or permit for ambulance service, or full-service passenger service that requires the PRC to deny such an application if the PRC finds, after hearing, that the grant of the application presents a reasonable potential to impair, diminish or otherwise adversely affect the provision of the relevant type of full-service passenger service to the public in the full-service territory or if the application is otherwise contrary to the public interest in the full-service territory.

SB 328 establishes an unfair and deceptive trade practice under the Unfair Practices Act for a transportation service carrier or its licensee, employee or agent to charge or collect a predatory rate or to undertake a predatory practice in the provision of transportation services. SB 328 provides a cause of action to the person who has been damaged or who is likely to be damaged, or the Attorney General as a result of a predatory rate or practice. This remedy is in addition to any administrative, civil, or criminal penalty available to the Attorney General, a District Attorney, or to the PRC.

SB 328 provides that certificates for limousine and tour and sightseeing services issued prior to July 1, 2013 “become certificates for specialized passenger service” and those certificates for terminal shuttle, shared-ride, and bingo bus services issued prior to July 1, 2013 become certificates for shuttle service. Certificates for taxi and shuttle services “issued prior to July 1,

2013 shall become void on and after that date” and must be replaced with certificates specifying the nature of service actually provided – municipal or general service for taxis and scheduled or general service for shuttles. The New Mexico Movers and Warehousemen’s Association’s common tariff will “become the individual tariff of each of the individual member carriers of [the Association]” on July 1, 2013. Ambulance certificates will continue unchanged after July 1, 2013.

FISCAL IMPLICATIONS

According to the Department of Public Safety (DPS), this bill will bring New Mexico into compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) by making the financial responsibility requirement for motor carriers of passengers in the Motor Carrier Act compatible with same requirements contained in the Motor Carrier Safety Act and FMCSRs. If this bill is not passed, the DPS could face a 5 percent reduction in federal funding for the first year of non-compliance if the federal government pursues the issue, and 10 percent less the second year. In addition to the DPS, other agencies could potentially lose federal aid highway funding for the same reason.

The Road Fund receives most fees imposed under the Motor Carrier Act. Those state fees comprise less than half a percent all Road Fund revenue. This bill does not change the nominal fee amounts but it does redefine what activities are subject to which fees. The PRC staff expects an increased number of transactions will result in a very small net revenue increase.

According to the Administrative Office of the Courts (AOC), there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions and actions brought pursuant to the Unfair Practices Act as well as appeals to any damage awards or civil fines imposed pursuant to that Act. 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

The DPS points out that this bill will bring New Mexico into compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) by making the financial responsibility requirement for motor carriers of passengers in the Motor Carrier Act compatible with same requirements contained in the Motor Carrier Safety Act and FMCSRs.

ADMINISTRATIVE IMPLICATIONS

SB 328 would require Transportation Division Staff, prior to July 1, 2013, to reissue certificates issued to taxicab and shuttle services, specifying the actual nature of the service provided by the certificate holder. In addition, it is anticipated that SB 328, if passed in its present form with economic entry restrictions removed for all motor carriers of household goods and motor carriers of persons except ambulance, municipal taxi, and scheduled shuttle would result in an additional, temporary crush of new applicants from July 1, 2013 through December 31, 2013 although most likely lessening after the December 31, 2013 date.

RELATIONSHIP

The committee substitute for SB 328 duplicates the committee substitute for HB 194 titled “Relating to Motor Carriers; Amending the Motor Carrier Act.”

JE/blm