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FISCAL IMPACT REPORT

SPONSOR Rehm ORIGINAL DATE 2/18/2015
LAST UPDATED _____ HB 439/aHJC
SHORT TITLE Employee Leave for Legislators SB _____
ANALYST Leger/Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

National Council of State Legislatures (NCSL)

Indian Affairs Department (IAD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 439 proposes accrued annual or compensatory leave or leave without pay be taken by employees of a political subdivision of the state who are elected or appointed legislators to conduct legislative business, eligible to receive per diem pursuant for such business according to Article 4, Section 10 of the Constitution of New Mexico.

Synopsis of Bill

House Bill 439 relates to Legislators, specifies leave requirements for Legislators employed by a political subdivision.

FISCAL IMPLICATIONS

There is no fiscal impact to the Legislative branch. However, political subdivisions may be impacted.

SIGNIFICANT ISSUES

House Bill 439 adds a new section of Chapter 2, Article 1 NMSA 1978. The new section would

specify leave requirements for Legislators employed by political subdivisions of the state when conducting legislative business. A legislator employed by a political subdivision of the state may take accrued annual or compensatory leave or political leave when the member is unable to perform the member's usual job because of legislative business during working hours. Sick or administrative leave shall not be used for legislative business. This requirement appertains regardless of whether the member receives per diem and mileage reimbursement from the legislature.

Public employers (including home rule municipalities) are prohibited from adopting leave policies that allow employee-Legislators to take paid leave (already earned) other than annual or compensatory leave when the employee-legislator is conducting legislative business.

A public employee serving as a legislator shall not lose seniority nor shall service be considered a break in service.

Political leave means leave without net pay for the time of absence due to legislative duties. The public employer shall decide through its adopted personnel policies how net pay shall be deducted from the employee-legislator's regular pay.

Policies related to "political leave" are scarce in the state. The two largest school districts have easily accessible policies, whereas other political subdivisions do not.

Albuquerque Public Schools: *"Leave of absence without pay and with accrued benefits shall be granted for contracted work days to employees who are elected or appointed to the New Mexico State Legislature. The employee/office holder shall request in writing a leave within the framework of this policy and shall receive a written response defining the terms of the leave. Employees elected to the New Mexico State Legislature shall be limited to the number of days for the regular annual session and any special sessions plus ten (10) additional days for official legislative duties. The employee shall maintain the position in the school system normally held when not serving in political office. Employees on political leave shall be required to pay the employee share of benefits including life, medical, dental and vision Insurance. The district shall alert families of students assigned to teachers who plan to take political leave during the course of the school year so families may request an alternative teacher for their student."*

Las Cruces Public Schools: *"Upon request, the Board may grant an employee political leave to serve in public office. The employee may be charged the cost of a degreed substitute for the time the employee serves in public office. The Board may also grant an employee an extended political leave without pay to campaign for an election. Applications for such leave shall be made to the Superintendent."*

Analysis provided by NCSL show a variety of policies for Legislators with dual employment in state agencies. Select excerpts are listed below, the full report can be found at <http://www.ncsl.org/research/ethics/50-state-table-dual-employment.aspx>.

Arkansas: Code 6-17-115. *Elective or appointive office – State policy – Public school district policy.*

(a). It is the policy of this state to encourage public school employees to participate in government and to reduce barriers to their seeking or holding an elective or appointed office. Therefore, it is the purpose of this section to provide public school

employees clear information concerning the policies of the school affecting the rights of employees to seek or hold elective or appointive office.

(b). Each public school district shall adopt a policy concerning the right of employees of the school district to seek and hold an elective or an appointive office. The policy shall state the consequences, if any, for seeking or holding an elective or appointive office.

Delaware: Overview of law –

(a) There are numerous elected state officials and other paid appointed officials who are also employed by state agencies, educational and other institutions, and other jurisdictions of government within the State.

(b) The members of the General Assembly believe that the taxpayers of Delaware should not pay an individual more than once for coincident hours of the workday.

(c) The State should have in place clear policies and procedures to ensure that taxpayers of the State as a whole, and of its various governmental jurisdictions, are not paying employees or officials from more than 1 tax-funded source for duties performed during coincident hours of the workday.

West Virginia: (§6-5-12). *Leave of absence for public officials for performing public duties. Any persons elected to a part-time public office or appointed to a part-time elected public office shall be entitled to a leave of absence from his or her private employment except when such employment is with an employer employing five or fewer persons on a full-time basis on the days or portion of any day during which he or she is engaged in performing the duties of his or her public office. The leave of absence shall not result in any penalty being imposed upon the persons entitled to the leave of absence: Provided, That such leave of absence may be without pay by the private employer.*