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FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED 01/26/15 **HB** _____

SPONSOR Rue

SHORT TITLE Employee Preference Act **SB** 92

ANALYST Sanogo

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$62.0 - 82.0	\$62.0 - 82.0	\$124.0 – 164.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)
 Administrative Office of the Courts (AOC)
 Workforce Solutions Department (WSD)
 State Personnel Office (SPO)

SUMMARY

Synopsis of Bill

SB 92 would create the Employee Preference Act, declaring it a misdemeanor offense to require membership in a labor organization, or to require a labor organization’s recommendation or approval for hiring, promotion or continued employment. SB 92 makes it illegal to deduct union dues or fees from an employee’s compensation without written authorization, and outlines penalties for violations of the Employee Preference Act.

FISCAL IMPLICATIONS

The Attorney General’s Office (AGO) has made its assessment that the investigations and prosecutions of violations under SB 92 would create an addition to AGO responsibilities and could require additional FTE and funding. The estimate included in the operating budget table above is for one full-time assistant attorney general position. The funding would be recurring and would affect the General Fund.

SIGNIFICANT ISSUES

Notably, SB 92 does not contain any provisions exempting federal employers and employees; employers and employees covered by the Federal Railway Labor Act; employers and employees in exclusive federal enclaves; and wherever federal law would otherwise be preemptive. With respect to employees covered under one or more of these areas, federal law may pre-empt state right to work laws, including SB 92.

AGO has expressed its concern that the Employment Preference Act may raise an issue under the contracts clause of Article II, Section 19 of the New Mexico Constitution, which prohibits the enactment of a law that would impair “the obligation of contracts.” As currently proposed, the language of Section 6 of SB 92 may be

too broad and over-reaching since it would appear to render the *entire* agreement between an employer and union, as opposed to a particular provision, unlawful in the event of any conflict with the Act.

RELATION TO OTHER BILLS

A diagram of “right to work” legislation.

