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FISCAL IMPACT REPORT

ORIGINAL DATE 2/22/15

SPONSOR Griego LAST UPDATED _____ HB _____

SHORT TITLE Elevator Safety Act SB 405

ANALYST Elkins

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	See Text	See Text	Recurring	Elevator Safety Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$450.0	\$450.0	\$900.0	Recurring	Elevator Safety Fund*

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Attorney General's Office (AGO)

Office of the Superintendent of Insurance (OSI)

SUMMARY

Synopsis of Bill

Senate Bill 405, entitled the Elevator Safety Act, provides for professional licensure of elevator mechanics, contractors, and inspectors. The act provides for fees for licensure and permitting as well as penalties for violation of the act. The act creates a non-reverting fund, the Elevator Safety Fund, consisting of permit, license and certificate fees, income from investment, and money otherwise accruing to the fund. Money from the fund is to be used to administer provisions of the Elevator Safety Act. The bill requires the Construction Industries Division (CID) of Regulation and Licensing Department to set and enforce standards and licensing requirements for elevator mechanics, contractors, and inspectors.

FISCAL IMPLICATIONS

CID estimates that the costs of the functions required by this bill to be approximately \$450 thousand. This estimate is based on the creation of an elevator bureau within CID to administer the act. To implement, CID estimates it would need \$450 thousand for a bureau chief, three inspectors, one administrative specialist, additional contract services, and other costs to enforce the Elevator Safety Act. If the fees for licenses, permits, certificates, and inspections that go into the Elevator Safety Fund do not adequately cover the costs associated with implementing the act in FY16, CID may need additional general fund revenue to offset a portion of the costs.

However, CID estimates the number of licensees is expected to be small. Therefore CID may need fewer than three new inspectors to enforce the Elevator Safety Act.

Senate Bill 405 requires the commission to establish fees for licenses, permits, certificates and inspections. The fees are intended to cover the costs of administering the act. This industry is highly specialized and the number of licensees is expected to be small. Therefore, fees will have to be relatively high to cover the anticipated program costs.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

According to RLD, the City of Albuquerque currently has an elevator inspection program. It is estimated that over 80% of the elevators in the state are within the Albuquerque city limits. This bill would apparently require the city to cease this operation and CID to assume it. This implicates jurisdictional issues that should be addressed before the bill moves forward.

According to OSI, the insurance policy submitted to the director of CID will provide general liability coverage in the following amounts: at least one million dollars (\$1 million) for injury or death of any number of persons in any one occurrence; with coverage of at least five hundred thousand dollars (\$500 thousand) for property damage in any one occurrence; and statutory workers' compensation insurance coverage. The director shall be given at least ten (10) days' notice in the event of any material alteration or cancellation of any policy.

TECHNICAL ISSUES

According to the Attorney General's Office:

Section 4(C) requires the Construction Industries Commission (CIC) to hold an appeal hearing and issue a decision on appeal. This section seems to conflict with Section 18(C) which allows for a licensee to appeal the director's determination. Section 18(C) requires the director to hear appeals and then issue a "final decision". As drafted, is unclear what role the CIC will hold regarding appeals of the director's determinations.

Additionally, Section 18(B) discusses suspension, revocation or penalization of licensees who violate the act. The last sentence requires the director to suspend or revoke the license or certificate, or dismiss the proceeding; however, it seems that the director may

also impose a civil penalty on a licensee or certificate holder if found to have violated the act. By inserting the words “and or impose a civil penalty pursuant to this act” after the word “certificate” on line 16 of page 20 this concern would be alleviated.

Finally, Section 6(D) provides for the licensure of elevator mechanics. Subsections (1) and (3) appear to be duplicative and contradictory. Subsection (1) requires an acceptable combination of work experience and education in addition to passing an examination in order to obtain a mechanic’s license, while subsection (3) appears to only require passing a national examination in order to obtain the same license.

ADMINISTRATIVE IMPLICATIONS

CID’s exam function is currently outsourced to a private vendor. A new exam for the purposes of the licensing requirements under this act would not be covered by the existing contract with that vendor.

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