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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/15

SPONSOR Beffort LAST UPDATED _____ HB _____

SHORT TITLE Gov't Entities & Employee Bargaining SB 472

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employee Labor Relations Board (PELRB)

New Mexico Municipal League (NMML)

SUMMARY

Synopsis of Bill

Senate Bill 472 amends the definitions section of the Public Employees Bargaining Act making it gender neutral and excluding from the act political subdivisions of the state with a population of fewer than 5 thousand residents. The amendment also modifies the requirements for decertification of a previously recognized exclusive representative by allowing a decertification petition to be initiated by any public employee in that bargaining unit if there is only one or no dues paying members. If dues-paying membership drops to one or less, a decertification petition may be initiated at any time.

Certifies bargaining units which serve workers in a government entity with a population of less than 5 thousand would be grandfathered in as collective bargaining units under the new law.

FISCAL IMPLICATIONS

The PELRB reports:

If entities serving a population less than 5 thousand decide not to continue with collective bargaining, those entities will not incur expenses associated with collective bargaining. It appears that few government entities, as few as three or four, currently engaged in collective bargaining will fall within the fewer than 5 thousand population criterion.

It is difficult to predict the potential fiscal impact on this agency because there is no data upon which we can predict whether the number of decertification petitions filed with this agency might rise.

SIGNIFICANT ISSUES

SB 472 creates two distinct classes of public employees; those employed by an entity serving a population of less than 5 thousand and those employed by an entity serving a population greater than 5 thousand. It is possible that a legal challenge could be mounted over whether those public employees in the former category are being disenfranchised without a compelling state interest.

SB 472 presumes that payment of union dues is a valid indicator of workplace support for the union. Both PELRB and the National Labor Relations board have rejected that premise as a decrease in dues payment does not prove an actual loss of majority support for the union.

Because a union has an obligation to represent the interests of all public employees in the bargaining unit regardless of membership status, permitting decertification at any time may leave a union liable for a breach of its duty of fair representation even after it has been decertified as long as the collective bargaining agreement has not expired.

TECHNICAL ISSUES

SB 472 permits decertification of a bargaining representative “at any time if an appropriate bargaining unit has only one or no public employee who is a dues-paying member of the [certified] labor organization” but there is currently no known procedure by which an employee may obtain proprietary dues information nor is there a known technical procedure for the PELRB to verify dues payments made.

Additionally, the PELRB notes SB 472 is not clear regarding how population will be counted for determining whether school districts, community colleges and universities will be excluded from collective bargaining.

CJ/aml/bb