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FISCAL IMPACT REPORT

SPONSOR Rehm **ORIGINAL DATE** 1/24/2016
LAST UPDATED 2/3/2016 **HB** 101/aHSCAC

SHORT TITLE Law Enforcement Fund for Training **SB** _____

ANALYST Rogers

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|-------------------------|------------------------------|------------------|
| FY16 | FY17 | | |
| | See Fiscal Implications | | None |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|-------------|-------------|---------------------------------|------------------|
| FY16 | FY17 | FY18 | | |
| 0.0 | (\$8,587.3) | (\$8,303.0) | Recurring | General Fund |

(Parenthesis () Indicate Revenue Decreases)

Relates to and conflicts with HB 62

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Department of Public Safety (DPS)

SUMMARY

Synopsis of HSCAC Amendment

The House Safety and Civil Affairs Committee (HSCAC) amendment strikes “B” and inserts “C” in Section 5(A)(6) of the bill to reference the correct section. There is no fiscal impact as a result of the amendment.

Synopsis of Bill

HB 101 amends Section 29-13-2.1 NMSA 1978 to include certified regional law enforcement training facilities and the New Mexico Law Enforcement Academy (LEA) in the Law Enforcement Protection Fund (LEPF) Act.

This bill also amends Section 29-13-4 NMSA 1978 in the following ways:

1. increases the minimum balance maintained in the Peace Officer's Survivor's Fund from \$350,000 to \$750,000 supported by transfers from the LEPF;
2. increases entitlements for municipal police and county sheriff's departments by \$20,000 for each "class" as classified by population using the most recent decennial census;
3. changes the per officer allocation from \$600 to an amount determined by dividing the remaining LEPF balance so that an equal amount is allocated for each tribal, municipal, university and county certified officer; and
4. deletes section D, which currently allows DFA, Local Government Division to reduce LEPF distributions when the fund balance is insufficient to cover total distributions and allocations.

This bill also amends Section 29-13-6A NMSA 1978 to specify that 10 percent of the LEPF balance first be distributed as follows: 25 percent to the New Mexico Law Enforcement Academy and 75 percent equally among regional facilities. These distributions would be made before any other LEPF distributions.

This bill also amends Section 29-13-7 NMSA 1978 to allow for regional facilities and the New Mexico Law Enforcement Academy to use LEPF distributions to provide basic, advanced or in-service law enforcement training and for purchasing equipment directly related to the training.

FISCAL IMPLICATIONS

There is no fiscal impact as a result of the amendment.

Any fiscal year-end balance in the LEPF reverts to the state General Fund. Increasing LEPF distributions will result in a corresponding decrease in the balance available for reversion to the General Fund.

DFA provided the following analysis, with which the LFC agrees:

It is difficult to determine what the FY17 increase in LEPF distributions would be; however, if the provisions of the bill would have been in effect for the FY16 distribution, the total fiscal impact is estimated at \$8,145.3 thousand, as detailed below.

Per Section 29-13-3 NMSA 1978, the LEPF is funded from 10 percent of all money received for fees, licenses, penalties and taxes from life, general casualty, and title insurance business pursuant to the New Mexico Insurance Code. Revenue received in the LEPF fluctuates from year to year depending on volume of related insurance business activity.

This bill amends Section 29-13-4B NMSA 1978 to require that transfers to the Peace Officer's Survivor's Fund be made out of LEPF balances as necessary to maintain a minimum \$750,000 balance in the Survivor's Fund. When a law enforcement officer is killed in the line of duty, the officer's family receives a \$250,000 payment. Recently, in one year, \$750,000 was paid out to surviving families. Because it is difficult to project the transfers amount for a given fiscal year for this purpose, increasing the minimum to \$750,000 (from the current \$350,000 minimum) may ensure that a sufficient balance is maintained in the Survivor's Fund. **This \$400,000 increase would be transferred from the LEPF and result in \$400,000 less available for reversion to the General Fund.**

By amending Section 29-13-4C(1) NMSA 1978, this bill would increase municipal police and sheriff department entitlements by \$20 thousand for each population class. **Based on the 121 successful municipal and county applicants for FY16, the population class distribution from the LEPF would increase by \$2,420 million, resulting in the same amount less being available for reversion to the General Fund.**

By amending Section 29-13-6A NMSA 1978, this bill would require that 10 percent of the balance of the LEPF be distributed to the New Mexico Law Enforcement Academy (25 percent of the 10 percent) and regional facilities (75 percent of the 10 percent distributed equally among the eight regional facilities) before making any other LEPF distributions. **If the provisions of this bill would have been effective for FY16, the combined distribution to the New Mexico Law Enforcement Academy and eight regional facilities is estimated by using the 2015 revenue balance of \$13,228,976 x 10 percent = \$1,322.9 million resulting in the same amount less being available for reversion to the General Fund.**

By amending Section 29-13-4C(3) NMSA 1978, this bill would change the per officer allocation from \$600 to an amount determined by dividing the remaining LEPF balance, after calculating the other LEPF distributions, so that an equal amount is allocated for each tribal, municipal, university and county certified officer. **If the provisions of this bill would have been effective for FY16, with an estimated per officer allocation of \$1,626, the increase of \$1,026 per officer multiplied by 3,901 certified officers funded in FY16 is an increase of \$4,002.5 million, resulting in the same amount less being available for reversion to the General Fund.**

DPS estimates that HB 101 will increase funding for training opportunities at the DPS Law Enforcement Academy in the amount of approximately \$177.5 thousand and the New Mexico State Police academy, which is a certified regional academy, approximately \$66.6 thousand annually for basic, advanced and in-service training, and equipment directly related to that training.

SIGNIFICANT ISSUES

Both the DFA and the LFC believe the most significant issues regarding the bill are its negative fiscal impact to the state general fund and uncertainties surrounding the amount of annual revenue received by the LEPF.

Annual revenues into the LEPF are dependent on the business activity of specific types of insurance. Changes in the insurance industry can make it difficult to make accurate annual revenue projections.

Because of the uncertainty of annual revenue, which impacts the balance of the LEPF, the distribution to the New Mexico Law Enforcement Academy and regional facilities as well as the allocation per officer would vary from year to year. It is also possible that in a given year, the allocation per officer could be less than the \$600 currently in statute.

DFA expressed concern that the bill requires the use of fund balances to determine the distributions to the New Mexico Law Enforcement Academy and eight regional facilities and to determine the rate of allocation per officer. Because there is no period specified, the DFA, Local Government Division would likely use the available balance as of March 31st because the initial determination of LEPF distributions must be made no later than May 1st, pursuant to NMSA Section 29-13-5 1978. March 31st would be the most recently reconciled quarterly period.

DPS provides the following analysis: “Under 29-7-7 NMSA 1978, a regional academy is defined as a certified law enforcement training facility which means a law enforcement training facility within the state certified by the director, with the approval of the academy’s board of directors, that officers basic law enforcement training and in-service law enforcement training that is comparable to or exceeds the standards of the programs of the academy. There are currently nine law enforcement academies in New Mexico: The Department of Public Safety Law Enforcement Academy plus the eight certified regional academies: Albuquerque Police Department, New Mexico State Police, Las Cruces Police Department, Dona Ana County Sheriff’s Dept., Southeastern New Mexico, Western New Mexico, San Juan Regional Academy and the Bernalillo Sheriff’s Dept. The additional funding will have a positive effect to all recipients to expand upon their training programs and to purchase the needed equipment for both basic and advanced training environments. These funds will provide the recipients the ability to maintain modern training for today’s police officers.

Of these eight certified regional academies, four are academies within an existing agency that already receives funding from the Law Enforcement Protection Fund. These agencies are the Las Cruces Police Dept., Albuquerque Police Dept., Dona Ana County Sheriff’s Dept. and the Bernalillo County Sheriff’s Dept. As written, the bill provides eligibility to receive the funds both as an agency and as an academy. It is unclear whether the intention of the bill was to provide two opportunities for funding to these four agencies.”

ADMINISTRATIVE IMPLICATIONS

If this bill is enacted, the DFA, Local Government Division (LGD) will process payments for the New Mexico Law Enforcement Academy and the eight regional facilities as part of the LEPF distribution. This bill increases the complexity of the distribution calculations, which would require more labor hours as well as revisions to existing distribution spreadsheets.

The LGD would also be required to update the LEPF Rule, 2.110.3 New Mexico Administrative Code, to include the amendments to distributions and allowable expenditures included in this bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 101 relates to and conflicts with HB 62. HB 62 also amends Section 29-13-4 NMSA 1978 by adding a \$50,000 flat rate distribution for each of the eight regional facilities and the LEA and increases funding per certified officer for qualifying tribal, municipal and university police and county sheriff departments from \$600 to \$1 thousand.

This bill also amends Section 29-13-7 NMSA 1978 to allow for regional facilities and the LEA to use LEPF distributions to provide basic, advanced or in-service law enforcement training and for purchasing equipment directly related to the training.

The bill makes a \$50,000 non-recurring appropriation from the state General Fund to the LEPF in fiscal year 2017 for advanced officer training at regional facilities and the academy.

HB 62 has a negative general fund impact of \$1,960.4 thousand in FY17.

TECHNICAL ISSUES

DFA provided the following concerns:

“The amendments to NMSA 1978, Section 29-13-6A imply that the distribution of first priority is the distribution of 10 percent of the balance of the fund to the New Mexico Law Enforcement Academy (25 percent of the 10 percent) and regional facilities (75 percent of the 10 percent equally distributed to the eight regional facilities). However, because all of the remaining distributions are in a previous section (29-13-4), there is potential for confusion because the distributions are not referenced in statute in sequential order.”

“The Section 29-13-3 NMSA 1978 requires that any balance on June 30 in excess of \$100 thousand be transferred from the LEPF to the state General Fund. Therefore, the proposed language in 29-13-6A which states “the balance of the fund” appears to conflict with 29-13-3 which requires that \$100 thousand remain in the fund at fiscal year-end.”

“The proposed language to Section 29-13-6A NMSA 1978 (page 6 line 21 through page 7 line 5) could be moved to Section 29-13-4 (prior to page 3 line 12) as a possible new section before other distributions are referenced. This would result in the distributions being referenced in sequential order.”

DFA also suggested the amendment of language on page 6 line 22 as follows: “treasurer shall distribute ten percent of the available balance of the”.

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