FISCAL IMPACT REPORT

		ORIGINAL DATE	01/23/17		
SPONSOR	HSIVC	**LAST UPDATED**	02/27/17	**HB**	39/HSIVCS
SHORT TITLE	Governmental Liquor License Leasing			**SB**	
				ANALYST	Amacher

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
None	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 51, HB 56, HB 162 and SB 37, SB 57, SB 58, SB 124

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Regulation and Licensing Department (RLD)
New Mexico State Fair Commission (SFC)
New Mexico Public Regulation Commission (PRC)
Office of the Attorney General (OAG)

SUMMARY

Synopsis of HSIVC Substitute

The House State Government, Indian and Veterans Affairs Committee Substitute for House Bill 39 amends governmental licensing relating to liquor control providing a limited number of licenses that may be issued to a governmental entity. This bill provides for existing licensees an opportunity to lease any governmental licenses issued for a qualifying facility. A "qualifying facility" is defined in this bill. The effective date of this bill is July 1, 2017.

FISCAL IMPLICATIONS

No known fiscal impacts.

SIGNIFICANT ISSUES

House Bill 39 amends Governmental License, relating to alcohol (Section 60-6A-10 NMSA 1978), providing a limited number of licenses (5) that may be issued to a governmental entity.

This bill provides for existing licensees an opportunity to lease any governmental licenses issued for a qualifying facility. By adding the new term "qualifying facility", alcoholic beverages may be sold in other areas thereby allowing greater opportunities for liquor sales. This is only applicable for communities, with populations of 50,000 or less.
HB 39 defines a "qualifying facility" as:

(a) with respect to a municipality with a population of 20,000 or less, a place of business at which alcoholic beverages may be served and consumed; and,
(b) with respect to a municipality with a population between 20,000 and 50,000, a place of business at which alcoholic beverages may be served and consumed in a location designated as: 1) a metropolitan redevelopment area; or 2) a main street project area.

As outlined, the director may issue no more than five (5) governmental licenses for licensed premises and qualifying facilities. Prior to the issuance of a license, the governmental entity must contact each person who currently holds a license issued pursuant to the Liquor Control Act for such premises in the same local option district. If any exist, the governmental entity must offer each person the opportunity to lease the governmental license. Uniquely, the amendment also states the governmental entity shall lease to any such person who wishes to lease the license.

It should be noted that both terms "governmental entity" and "governmental facility" are already defined in Governmental License (Section 60-6A-10 NMSA 1978). "Governmental entity" is defined as a municipality, a county, a state fair that is held for less ten days per year, the state fair commission, a state museum, a state university or the spaceport authority.

A "governmental facility" means locations on property owned or operated by a governmental entity, that include county fairs; state fairs held for fewer than ten days per year and all facilities on the New Mexico state fairgrounds; convention centers; airports; civic centers; food service facilities in state museums; auditoriums; facilities used for athletic competitions; municipal golf courses; facilities used for cultural or artistic performances; and all spaceport authority facilities.

OTHER SUBSTANTIVE ISSUES

The SFC notes that if this proposed legislation applies, or were extended to the state fair, there could be positive revenue implications. Although these implications have not been quantified, the SFC mentions the fair/EXPO New Mexico would be able to expand events and derive funds from the lease fee. The license could be leased and operated at additional locations where the mission of the State Fair celebrations for which New Mexico's art, industries, cultural and agricultural elements) may be enhanced. As an enterprise agency, this could result in increased revenues for the State Fair. This bill requires the licensed governmental entity to establish the lease fee paid by the lessee using the license at a "qualifying facility." However, there can be no qualifying facility in a municipality with more than 50,000 persons.

The Regulation and Licensing Department comments that under current law, governmental liquor license applicants are limited to those entities and facilities defined under "governmental entity" and "governmental facility". Such licenses may be leased but can be operated solely at the governmental facility for uses and events conducted by the governmental entity. Furthermore, the RLD indicates there are no restrictions proposed this bill for a municipality with a population under 20,000. There are two proposed restrictions outlined for municipalities with populations between 20,000 and 50,000.

The RLD also notes that Albuquerque, Las Cruces, Rio Rancho and Santa Fe are the only municipalities excluded by population from obtaining governmental licenses through the "qualifying facility" provisions. Counties would also not be eligible for the licenses contemplated under this measure.

The RLD states New Mexico has 84 municipalities with populations under 20,000; this includes, Deming, Los Lunas, Silver City, Espanola, Las Vegas, Tucumcari, Taos, Ruidoso, Mesilla, Elephant Butte, Angle Fire, and many others. As proposed in this legislation, each municipality would qualify for up to five (5) governmental licenses at any business where alcohol may be served and consumed. The locations would therefore be limited solely by any municipal zoning ordinances.

There are seven (7) municipalities between 20,000 and 50,000, as highlighted by the RLD, which would qualify for up to five (5) governmental licenses but would be limited to those locations within either a metropolitan redevelopment area or a main street project area. These seven include: Gallup, Carlsbad, Alamogordo, Hobbs, Clovis, Farmington and Roswell.

The Office of the Attorney General (OAG) notes this proposed legislation does not indicate what process the governmental entity will use in the event that more than one current license holder expresses an interest in leasing the governmental license made available for leasing.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Alcoholic beverages will continue to be sold directly or through a lease, by a governmental entity, at a defined governmental facility.

JMA/sb/al