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FISCAL IMPACT REPORT

ORIGINAL DATE 2/10/17
LAST UPDATED 2/15/17 **HB** 227
SPONSOR McQueen

SHORT TITLE Use of Public Databases **SB** _____
ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate Increase	Indeterminate Increase		Recurring	General Fund/Other State Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 Administrative Office of the Courts (AOC)
 Office of the Attorney General (OAG)
 Department of Information Technology (DoIT)
 State Commission on Public Records (SCPR)
 Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Bill 227 proposes to allow the use of state agency databases for political purposes.

FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC) indicates its analysis submitted to the Supreme Court showed that any public access would require redaction of all personal identifiable information (PII) prior to electronically releasing records to members of the public through all judiciary websites. To facilitate public access, the judiciary requested funding through the computer enhancement fund process in the amount of \$1.2 million for the FY18 legislative session. The funding request was not recommended by DoIT, DFA or LFC.

SIGNIFICANT ISSUES

HB227 is a response to a state agency denying access to public information to a former state

House Bill 227 – Page 2

employee who believed the data being presented to support spending billions of dollars on diverting water from the Gila River was flawed.

The State Commission on Public Records (SCPR) notes that the bill would remove this requirement of individuals who are seeking to use it for political purposes.

OTHER SUBSTANTIVE ISSUES

AOC points out that the language in HB227 that allows copying of the database conflicts with the statements attaching criminal penalties to unauthorized use of information obtained through this method of disclosure. Typically, a database can't legally be copied and passed on to others. In the case of the judiciary, one would need access to the Judiciary's proprietary software, Odyssey, to format usable data after obtaining the database.

The Department of Finance and Administration (DFA) points out that portions of the current law may conflict with the Inspection of Public Records Act (IPRA). Specifically, IPRA allows for personal identifying information to be redacted from public records prior to production, while section C, subsection 3 of this current law (with no proposed amendment to change it) states that in order to obtain a public database a person must agree to "not use the database for solicitation or advertisement when the database contains the name, address or telephone of any person unless such is otherwise specifically authorized by law."

ALTERNATIVES

Neither the current law nor this bill defines "political purpose". The School District Campaign Reporting Act and the Campaign Reporting Act do contain a definition of "political purpose". Section 1-22A-2 NMSA 1978 (School District Campaign Reporting Act) defines "political purposes" as advocating the election or defeat of a candidate in an election. Section 1-19-26 NMSA 1978 (Campaign Reporting Act) defines "political purpose" as influencing or attempting to influence an election or pre-primary convention, including a constitutional amendment or other question submitted to voters. If the intent of HB227 is to allow access to state agency data, that is not otherwise protected by another law, to a citizen who is questioning the validity or veracity of the data presented by the agency, perhaps the solution is to define "political purpose".

POSSIBLE QUESTIONS

Is the intent to allow state agency data to be used for political purposes?

ABS/al