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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/17

SPONSOR Rue LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Additional Sunshine Portal Info SB 472

ANALYST Boerner

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
 Department of Information Technology (DoIT)  
 Office of the Attorney General (OAG)

### SUMMARY

#### Synopsis of Bill

Senate Bill 472 (SB472) expands the information required to be posted on the Sunshine Portal and identifies confidential information not be posted on the Sunshine Portal. SB 472 directs DoIT to develop the Sunshine portal to host public information in addition to the state’s financial information. The Sunshine portal will provide access to the state’s financial information concerning the expenditure of public money which is to be provided by the Department of Finance and Administration.

This bill differentiates between the Sunshine Portal and a transparency website. The Sunshine portal is defined as the single, internet website that is the primary source of public information about the activity of the state government. A transparency website is defined as a website provided by a state agency for the purpose of providing the public with information for the purpose of governmental transparency.

The Sunshine Portal will provide a directory of all state employee positions identified by agency, position title, exempt or classified employee status, salary and the name of the individual who holds the position. Names and information pertaining to undercover peace officers, employees

who filed for an order of protection pursuant to the Family Violence Protection Act or other order of protection pursuant to state or federal law, and employees for whom it is determined by the state agency or local education provider that publishing the employee's name would endanger the employee's safety will not be listed. This is the notion of "responsible transparency."

Links to transparency websites maintained by state agencies will be provided by the Sunshine portal. If an agency head makes a written determination that publishing certain types of information on the internet is against prevailing public interest, the agency will not be required to post the information on the Sunshine portal or any transparency website.

SB 472 directs DoIT to promulgate rules pursuant to the State Rules Act to create the architecture and the information exchange process for the collection and publication of the state's public information that is not financial information.

### **FISCAL IMPLICATIONS**

In the following analysis, DoIT identified no fiscal impact for this bill, noting that certain provisions may in fact provide some cost savings for the state and eliminate certain redundancies regarding reported information:

DoIT anticipates minimal impact to DoIT as a result of enacting a directory of all employee positions identified by state agency, position title, exempt or classified employee status, salary and the name of the individual, as this information is already available via a separate website . In fact, DoIT states this bill would allow for the elimination of this redundancy.

Currently the Sunshine Portal provides a directory of state positions, organization and salary for all branches of state government as called for in the existing Act. Funding for these provisions is already incorporated in the operational funds allocated for current operations of the portal.

DoIT does not anticipate any additional fiscal implication to maintain the current requirements of the Sunshine Portal Act, the addition of the state's financial information, and the addition of names. DoIT will manage the exceptions of information by improving current process and business rules.

This Bill allows for the state to have a central location to post public information for public consumption, and allows for one more tool for transparency that state agencies can use. DoIT would be able to potentially expand the capabilities of the Sunshine Portal to provide any type public information, not just those exclusively listed in the bill, online in one centrally located place.

There are potential cost savings in centralizing online transparency websites, and potentially expanding the capabilities of the Sunshine Portal.

## **SIGNIFICANT ISSUES**

RLD noted the bill allows for the exclusion of an employee's name and information if:

- (b) the employee filed for a protective order under the Family Violence Protection Act or other state or federal protective order; and
- (c) if a state agency or local education provider determines that publishing the name may endanger the employee's personal safety...although RLD notes there are no guidelines for such exclusion.

RLD points out that since per Section 4 (B) an agency head has the authority to make a written determination as to information that would not be in the public interest to provide to either the sunshine portal or the transparency website, it is therefore important that the agency head be informed of such issues in order to make this determination.

## **PERFORMANCE IMPLICATIONS**

DoIT notes it already has allocated staff resources to perform the current functions of the Sunshine Portal, including posting the monthly updates of information and technical support for posting state contracts. The same staff can easily fulfill the additional requirements.

Regarding the additional requirements of the directory of state employees, the SHARE functional modifications can be completed by the effective date of the bill, July 1, 2017.

## **ADMINISTRATIVE IMPLICATIONS**

Employee names are already posted on a separate website so no additional requirements will be necessary to manage the exceptions as listed in the bill. DoIT states will take the opportunity review and work with state agencies concerning the exceptions.

Assuming that the frequency and/or volume of updates to the Sunshine portal remain at current levels, existing staff and resources will be utilized resulting in minimal administrative impact.

## **OTHER SUBSTANTIVE ISSUES**

The OAG cautions that if this bill is enacted, DoIT should ensure the state does not post information that is otherwise protected by New Mexico state or federal statute, rule, or Constitution.

## **ALTERNATIVES**

RLD notes Section 3 (C) states "the department shall promulgate rules to create the architecture and the information exchange process for the collection of electronic publication..." As "architecture" refers to a professional occupation, possibly an alternative term might be better suited to explain what is needed, such as "to create the design of and the information exchange process..." or could just state "to create the information exchange process...". Both statements clarify what the department shall create for the exchange of information. While this suggestion is made it is also noted that Section 3 (A) in the present Act uses the word "architecture".

However, architecture is a term of art in information technology and as such, may not cause any particular problems for the implementation of this bill.