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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/12/18

SPONSOR Thomson LAST UPDATED \_\_\_\_\_ HB 311

SHORT TITLE State Employee Harassment Training SB \_\_\_\_\_

ANALYST Esquibel

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

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund, Other State Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

House Bill 311 relates to House Bill 313, Annual Lobbyist Harassment Training, and Senate Bill 31, School Sexual Assault Reporting Training.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)

### SUMMARY

#### Synopsis of Bill

House Bill 311 (HB 311) would amend the Governmental Conduct Act, NMSA 1978, Section 10-16-1 *et seq.* (GCA) by adding new material mandating sexual harassment training for all state employees, as well as contractors doing business with the state.

Section 1 of HB 311 mandates annual four-hour state employee education on preventing and reporting sexual harassment in the work place to include training on (1) behaviors that consist of sexual harassment in the work place; (2) reporting sexual harassment in the work place; and (3) appropriate responses of by-standers who witness sexual harassment in the work place. Each agency that adopts a code of conduct pursuant to the GCA and each judicial agency would be required to report annually on its employee trainings. Executive agencies shall report to the General Services Department, the legislative agencies would report to Legislative Council, and judicial agencies would report to the Administrative Offices of the Courts.

Section 2 of HB 311 would provide that a state agency that enters into a contract with a business employing ten or more full-time employees must require the business to certify that its employees have taken four hours or more of training on preventing and reporting sexual harassment from a qualified trainer within one year of entering into the contract.

Section 3 of HB 311 amends section 10-16-11 of the GCA, governing codes of conducts adopted by state agencies, to require that these general codes of conduct contain provisions “for training to prevent and report sexual harassment in the workplace” as provided in Section 1 of HB 311.

Section 4 of HB 311 would amend Section 10-16D-3 of the Sunshine Portal Transparency Act, to require the posting information on state employee participation in training to prevent and report sexual harassment in the workplace that is compiled in accordance with Subsection B of Section 1 of HB 311. There is also some clean-up of language to this section.

### **FISCAL IMPLICATIONS**

The bill does not include an appropriation.

An interminate amount of funding would be necessary to provide the sexual harassment training and materials under the provisions of the bill.

### **SIGNIFICANT ISSUES**

The Attorney General’s Office reports California, Maine and Connecticut mandate employee sexual harassment training be provided by certain business employers. For example, California requires all business with 50 or more employees provide the training. HB 311 limits the application of the mandate to business employers seeking a contract with the state. To avoid a possible equal protection claim under the New Mexico Constitution, a legitimate state interest in requiring contractors entering contracts with the state to provide sexual harassment training could be articulated. It is unclear whether the “within one-year” requirement is prospective. If retroactive, additional time beyond the effective date may be necessary to permit current contractors to come into compliance with the training requirement.

RAE/al