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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/19

SPONSOR Sapien LAST UPDATED _____ HB _____

SHORT TITLE Rental Car Company Concession Fees SB 111

ANALYST Chabot

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	TBD			Municipalities and Counties

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Municipal League (NMML)

Office of the Superintendent of Insurance (OSI)

SUMMARY

Synopsis of Bill

Senate Bill 111 requires car rental companies to enter into concession agreements with municipalities or counties to operate the municipal or county airport. It defines a car facilitation company and car facilitation transaction. It also amends the Rental Car Insurance Limited Producer Licensing Act (RCILPA) to add provisions governing the rights and responsibilities of car-sharing companies, vehicle owners and accident victims with respect to car-sharing transactions. It adds provisions to the Mandatory Financial Responsibility Act (MFRA) to vehicles being used in a car-sharing transaction. The owner's insurer would be allowed to exclude liability coverage for the operator if the vehicle is being used in a car-sharing agreement. The car-sharing company would be responsible for insuring its exposure as the quasi-owner, and of insuring the exposure of the operator.

FISCAL IMPLICATIONS

Senate Bill 111 will provide a new revenue source for municipalities and counties can collect from car rental companies at municipal or county airports and used for property, improvements and operations.

It is not possible to estimate the revenues that could be collected.

SIGNIFICANT ISSUES

NMML states municipalities and counties will have the ability to negotiate a reasonable concession fee from rental car companies. The only limitation of the fee negotiated is that it be uniform as to the class of rental car company and tied to improvements to the municipality or county property.

OSI assesses, the bill could result in reduced compensation for accident victims because it shifts the burden of mandatory financial responsibility to the car-sharing company and the bill could be construed to limit an accident victim claim to the minimum level of coverage provided. OSI states the proposed language suggests the car-sharing company would only be liable for claims that could be asserted against an owner, as opposed to an operator, but would still limit coverage for the operator to MFRA minimums.

OSI further states a car owner may elect to participate in a car-sharing program at any time, but auto insurance policies are issued for a fixed period typically six months to a year. To account for the possibility that an owner will decide to participate in a car-sharing program after the inception date of the policy, auto insurers will need to amend all current auto liability form to account for that potential and address the coverage limitations.

OSI contends there is no relationship between the RCILPA and MFRA, however, this bill would amend the former but impact the latter.

ADMINISTRATIVE IMPLICATIONS

If this bill is enacted, OSI would likely need to review and evaluate a significant number of policy form filings as both commercial and personal line auto insurers attempt to craft policy language conforming to the new law.

TECHNICAL ISSUES

OSI assess the proposed changes to RCILPA are ambiguous as to whether an accident victim would claim against the negligent operator of a car-sharing vehicle, or against the car-sharing company. If claims against the operator remain possible, it is unclear whether the victim could recover higher limits from the operator's policy or against the operator's personal assets.

OTHER SUBSTANTIVE ISSUES

OSI assesses that because RCILPA regulates producer licensing, the bill may be construed as to allow car-sharing companies and their employees to sell insurance.

ALTERNATIVES

OSI offers the following alternatives:

1. Amend MFRA to require car-sharing company to provide operator of the borrowed vehicle MFRA minimum limits of coverage.
2. Clarify that the operator remains liable to the victim for operator negligence.

3. Make car-sharing company vicariously liable for operator negligence to encourage the company to maintain higher coverage limits.
4. Allow personal auto policy to exclude MFRA mandated coverage for the operator and owner while the vehicle is use for car-sharing transactions.

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