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FISCAL IMPACT REPORT

SPONSOR Campos ORIGINAL DATE 2/3/19
LAST UPDATED _____ HB _____
SHORT TITLE Add Public Record Protection for Personal ID Info SB 381
ANALYST Gaussoin

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		No Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bills 232 and 285

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
Department of Information and Technology (DoIT)

SUMMARY

Synopsis of Bill

Senate Bill 381 adds email address and “any other unique identifier from which the identity of a person may be reasonably inferred by direct or indirect means” to the list of protected personal identifier information that can be redacted under the Inspection of Public Records Act (IPRA).

SIGNIFICANT ISSUES

NMAG raises concerns the language allowing the redaction of “any other” information unique to a person that allows for a person to be identified is potentially too broad and conflicts with the intent of IPRA to provide access to government information because it results in better government. The bill might give too much discretion to public agencies in determining what information can be withheld.

Currently, NMAG reports, IPRA requires that public information on an employee must relate to public business; telephone numbers, home addresses and other personal contact information generally is maintained only for administrative purposes. NMAG acknowledges the risk of identity theft but notes email addresses do not present the same level of risk as telephone

numbers or home addresses.

NMAG and DoIT recommend more specific language on protected information could be a better approach to balancing personal privacy with government transparency. NMAG suggests using “information kept for human resources purposes only”; DoIT suggests a list of protected information rather than the open-ended “any other” designation, an approach used by the IRS. As written, agencies might find it difficult to determine what information is protected, DoIT says.

In addition, DoIT recommends including employee number on the list of protected information. If not protected, an employee number can be used to identify an employee through the state’s finance and human resources system called SHARE.

ADMINISTRATIVE IMPLICATIONS

Changes in IPRA might necessitate additional training of state agency staff by NMAG staff, particularly if the broad language now in the bill is enacted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 232 allows a public body to charge additional costs and fees for records requests that “require excessive use of technology or personnel.”

Senate Bill 285 clarifies that refusal to allow inspection of public records is a violation of IPRA and subject to damages.

ALTERNATIVES

Amending the bill with more precise language would address the issues raised by DoIT and NMAG.

HFG/sb