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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/2020

SPONSOR Trujillo, L. LAST UPDATED _____ HB 155

SHORT TITLE License Establishment for Massage Therapy SB _____

ANALYST Hanika-Ortiz

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|---------|--|---------------------------------|-------------------------|
| FY20 | FY21 | FY22 | | |
| | \$750.0 | (license renewal on biennial basis) | Recurring | Massage Therapy Fund |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY20 | FY21 | FY22 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|---------|---------|----------------------|------------------------------|----------------------------|
| Total | | \$290.0 | \$290.0 | \$580.0 | Recurring | Massage Therapy Fund |

SOURCES OF INFORMATION

LFC Files

Response Received From

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 155 relates to the licensing and inspection of massage therapy establishments.

FISCAL IMPLICATIONS

The massage therapy board would be required to inspect massage therapy establishments in addition to license therapists, which would increase the workload for that board, a subunit of RLD.

RLD reports the massage therapy board would need to use existing massage therapy fund balances in addition to establishing licensing fees to license and inspect massage establishments.

Currently, there are 8,200 licensed massage therapists, many of whom work in a massage establishment. RLD estimates there are 1500 establishments that may apply for a license. An appropriation from the balance in the massage therapy fund of \$290 thousand from other state funds would be needed for the initial year setup. This covers salaries and benefits for 3 FTEs as well as other operating costs such as office equipment and vehicles. The initial and biennial renewal massage establishment license fee to be collected is estimated at between \$500 to \$800, and the revenue generated from the fees could be about \$750 thousand (based on 1500 licenses).

The Administrative Office of the Courts said it does not believe the bill would impact the courts.

SIGNIFICANT ISSUES

House Bill 155 amends the Massage Therapy Practice Act to require registration and licensing of massage therapy establishments. This legislation will: (1) change the definition of massage therapy to include “massage” so that an establishment opening up a massage business will also be subject to required licensure and inspections; (2) give the Massage Therapy Board the power to establish minimum standards for massage therapy establishments; (3) give the board the power to issue and revoke massage therapy establishment licenses; (4) require a massage therapy establishment to be licensed, with license renewal on a biennial basis; (5) allow the board to immediately suspend an establishment license without prior notice when a “substantial danger of illness, serious physical harm or death to customers who might patronize the establishment” is present; (6) allow a license holder to request an administrative hearing pursuant to the Uniform Licensing Act under certain circumstances; and (7) allow the board to seek relief in district court to enjoin the operation of a massage establishment under certain circumstances.

RLD reports massage establishments are currently not required to be inspected. According to a Health and Human Services Department’s Administration for Children and Families report, one of the top sex trafficking venues is commercial front brothels. According to the New Mexico Human Trafficking Hotline website, one of the top venues for sex trafficking is an illicit massage or spa business. The bill would allow inspectors to work with law enforcement to find illicit businesses fronting for human trafficking as defined in Section 30-52-1, as well as prostitution.

PERFORMANCE IMPLICATIONS

Under the bill, a licensed massage therapist would need to ensure their principal place of employment – if under the ownership of another person – is also licensed by the board. Otherwise, under certain conditions, that therapist may also be subject to disciplinary action or license denial.

OTHER SUBSTANTIVE ISSUES

Under Section 9 of the bill, a person who maintains or operates an unlicensed massage therapy establishment is guilty of a misdemeanor pursuant to Section 31-19-1 NMSA 1978. For defendants that are convicted of such a crime, the sentence may be imprisonment for a definite term of less than one year or to the payment of a fine of not more than one thousand dollars (\$1,000) or both.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The board would not be required to license and inspect massage therapy establishments.

AHO/sb