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FISCAL IMPACT REPORT

SPONSOR Padilla ORIGINAL DATE 2/6/2020
 LAST UPDATED _____ HB _____

SHORT TITLE Construction Industries “Contractor” SB 167

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		(\$11.2)	(\$11.2)	(\$11.2)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

SB 167 amends Section 60-13-3 NMSA 1978 of the Construction Industries Licensing Act (CILA) by revising the term “contracting” within the definition of “contractor” as it relates to covered activities; and by exempting a telecommunications company or a person working on behalf of a telecommunications company who is working on a communication system serving a residence.

More specifically, Section 1, A(6) removes the specific categories of “leveling or clearing land” and “excavating earth” and replaces these terms under the broader description of contracting. Next, D(6) relating to exempted entities removes a “telephone or telegraph” company and adds a “telecommunications” company or person working for a telecommunications company serving a residential property. Finally, D(14) adds language to require an individual performing casual or minor work on one small project at a time to pay an annual fee of \$100 fee to claim an exemption.

FISCAL IMPLICATIONS

RLD estimates a loss of revenue for the Construction Industries Division (CID) from fewer permits and renewal fees for licenses no longer required, and from decline in re-certifications for

journeymen. However, the bill also proposes new revenue from fees to exempt small projects.

SIGNIFICANT ISSUES

RLD reported it is appropriate to delete “telephone or telegraph” and expand that section relating to exemptions to include “telecommunications” companies recognizing current technology. However, expanding the exemption to include a “person working on behalf of a telecommunication company” contradicts the current CILA as to persons requiring a license.

According to RLD, SB167 would exempt a person or corporation under contract to a telecommunications company from licensing requirements of CILA as well as all requirements for competency and discipline when completing work in violation of the CILA, its regulations, codes and standards. Currently, these companies are only exempt if the work is an integral part of the operations of a communication system owned or operated by the company and the work is performed by employees. Contracted work mandates licensure and compliance with the CILA.

RLD is concerned the bill exempts this entire industry from CILA, its regulations, codes, standards and all oversight to ensure competency in this significant field of construction and electrical work in the state. Currently this law ensures such electrical work to be completed competently by trained, qualified parties and journeymen, and provides the commission with authority to discipline such contractors for work not completed in compliance with applicable codes and standards.

Pursuant to the CILA and the administrative code, licenses authorize contracting in the activities covered only within the classification of the license issued. Work performed outside that scope of work/licensure is grounds for discipline. That means construction work performed by an entity/individual is limited to the scopes of work for which the entity/individual has established competence proven through licensure. RLD is concerned SB167 would allow these companies to hire an unlicensed “person” with no proven record of competence, (ie, uncertified journeymen) to perform a broad range of electrical work. Consideration must be given to the potential hazards that could result to life and property from such work being performed by unqualified individuals.

PERFORMANCE IMPLICATIONS

The scope of telecommunications work, which includes work up to 300 volts, is presently authorized by the division’s electrical specialty [ES-7] and commercial and residential general electrical [EE-98]. Licensees are able to complete work authorized by these classifications; which is included in the electrical code and subject to licensure requirements and code requirements.

TECHNICAL ISSUES

RLD noted including “leveling clearing or excavating any” does not clearly explain the definition of contracting in that regard. A suggested revision should include “leveling or clearing land or excavating earth for any:”. Making this change will remove the necessity for including “land” in A(12) and “earth” in A(13) while allowing a clearer understanding of these aspects of contracting.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Other than work completed by telecommunications companies' own employees, all such commercial and residential work will be subject to CILA regulations, codes, and standards.

AHO/al