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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/21

SPONSOR Ortez LAST UPDATED _____ HB 168

SHORT TITLE National Flood Insurance Compliance SB _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Additional FTE Cost		\$407.4	\$407.4	\$814.8	Recurring	Various
Additional Project Design		\$600.0	\$600.0	\$1,200.0	Recurring	Various
Total		\$1,007.4	\$1,007.4	\$2,014.8	Recurring	

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Homeland Security and Emergency Management (DHSEM)

General Services Department (GSD)

Higher Education Department (HED)

Public School Facilities Authority (PSFA)

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 168 (HB168) designates the Homeland Security and Emergency Management Department (DHSEM) as the state agency responsible for compliance oversight with the National Flood Insurance Program (NFIP) and requires the Construction Industries Division (CID) of the Regulation & Licensing Department (RLD) the state agency to review, permit and enforce floodplain management for all buildings that are owned or funded by the state.

Under the provisions of the bill, CID is required to review, permit, and enforce floodplain management rules for all state buildings prior to the development of any/all buildings to be owned or funded by the state. These requirements include floodplain review by a certified floodplain management professional prior to the start of development.

FISCAL IMPLICATIONS

HB168 will increase costs for the agencies tasked with compliance and oversight (DHSEM), permitting (RLD), and the owner of state facilities (GSD). The following are cost estimates for additional staff provided by affected agencies:

Estimated Cost of Additional Staff Required by HB168

(in thousands)

Agency	Cost	Justification
RLD	\$265.2	For 3 additional FTE: 1 certified floodplain management professional and 2 investigators.
DHSEM	\$71.1	1 FTE to support NFIP coordinating office
GSD*	\$71.1	1 floodplain management FTE
Total	\$407.4	

*GSD did not estimate a cost for an additional FTE. Table reflects DHSEM's estimated cost.

In addition to hiring additional staff to ensure compliance with the provisions of HB168, GSD estimates additional design requirements may increase project costs by \$2,000 to \$10 thousand each. GSD estimates the annual cost of compliance to be approximately \$600 thousand (based on 300 projects per year with an average cost increase of \$2,000).

The Department of Cultural Affairs and the Department of Transportation own facilities and will face increased costs that are not reflected in the estimated additional operating budget impact table.

The requirement that facilities “owned or funded in whole or in part by the state” could apply to facilities which received state capital outlay funds.

RLD is empowered to impose fees for permitting that could pay for the department’s cost of implementation of the program. However, the fees would increase costs to other state agencies and reduce the funding available for projects.

SIGNIFICANT ISSUES

GSD notes the definition of “development” is broad and would require a floodplain professional to identify existing floodplain locations for all projects. This is currently only required for new building projects. GSD states:

The bill defines “development” by cross-reference to 44 C.F.R. Section 59.1, which provides: “‘development’ means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.”

DHSEM reports:

Past non-compliant state development has placed the general public at risk should a flood event occur and places avoidable liability on the State. Currently, the development of a New Mexico Elementary School at four feet below the estimated flood water elevation

has been used as an example at a national level to express the importance of such regulations

PSFA states:

This bill would require PSCOC funded projects to comply with the project requirements, as determined by the local flood plain management professional or the floodplain management rules set by the NMDHSEM, whichever is more stringent. Unless these groups are coordinating, differing determinations from the two entities may introduce uncertainty, cause delays to the design and permitting process, and increase the cost of construction to meet more stringent requirements than originally accounted for by the design team.

CJ/rl