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FISCAL IMPACT REPORT

SPONSOR Soules ORIGINAL DATE 02/04/21
LAST UPDATED _____ HB _____
SHORT TITLE CID Building Codes SB 217
ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Funds Affected
Total		Indeterminate, See Fiscal Implications			Recurring	Various

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Board of Examiners for Professional Engineers and Professional Surveyors

SUMMARY

Synopsis of Bill

SB217 amends Section 60-13-9 NMSA 1978 to require the Construction Industries Division (CID) to submit to the New Mexico Construction Industries Commission (CIC) each relevant building code revision to the International Building Code promulgated by the International Code Council (ICC). Within twelve months of the promulgation by the ICC of a revision to the International Building Code, all New Mexico building codes would then be required to be amended to meet the minimum standards set forth in the most recent revision to the International Building Code.

The effective date of this bill is July 1, 2022.

FISCAL IMPLICATIONS

Revisions to the International Building Code that would be required to be adopted, as opposed to just used as a model code development tool, could influence construction costs in New Mexico.

RLD expects compliance with the bill to involve numerous administrative rulemaking processes to be conducted by the RLD's Construction Industries Division (CID) over subsequent years. Rulemaking proceedings involve costs for publication of notices, printing and mailing of proposed

rule drafts, conducting public hearings, and related expenses. At this time, RLD reports there is no reasonably accurate way for the department to estimate the total amount of these expenses.

SIGNIFICANT ISSUES

RLD reports the Construction Industries Licensing Act (CILA) gives CID's trade bureaus the authority to recommend to the CIC minimum code standards for the state. CIC considers those recommendations and makes determinations on the enactment of all building codes. The members of CIC are experts representing the various building trades, architects and the public to approve policy, rule and code for the general safety and welfare of New Mexico citizens. This bill would largely negate the statutory authority of those building trade bureaus and CIC, by requiring ICC building codes be adopted without modification as the state's minimum building code standard.

RLD notes in Section 60-13-44 NMSA 1978, subsections C, G, and H requires that in recommending building codes and standards that the building trade bureaus consider the physical, climatic and other conditions unique to New Mexico. Enactment of ICC published codes as the state's minimum code requirements could contradict this legislative mandate. By removing from the CID and CIC the authority to recommend and approve minimum building code requirements, this bill, if enacted, would delegate authority to the ICC to prescribe codes best for New Mexico.

PERFORMANCE IMPLICATIONS

The State Rules Act requires a public hearing to be held prior to the enactment of rules, including building codes. The process in the bill would eliminate the ability for the public to have any substantive input to the rulemaking process because even if the public is provided an opportunity to comment, the ultimate decision to adopt the building codes will have already been made.

ADMINISTRATIVE IMPLICATIONS

RLD further noted that mandating a twelve-month time period for building code amendments presents additional concerns. After the ICC initially publishes a new code, there is a time period of one to two years to make amendments based on issues raised by jurisdictions and industry. If building codes are adopted, and the ICC amends those same code provisions, the CIC would be required to undertake a new state rulemaking process with each subsequent ICC amended version.

All references to adopted building codes in the Manufactured Housing Act administrative code would be required to be revised and enacted pursuant to the requirements of the State Rules Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill may conflict with requirements of the State Rules Act regarding public participation.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Construction Industry Division's trade bureaus and the Construction Industries Commission will continue to make decisions relating to minimum building code standards for New Mexico.