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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/22
 SPONSOR Stewart/Chandler LAST UPDATED 2/9/22 HB _____
 SHORT TITLE University Research Park & Econ Dev Act Changes SB 41/ec/aSJC/aSFI#1
 ANALYST Fischer

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total				See Fiscal Implications		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)
 University of New Mexico (UNM)
 New Mexico State University (NMSU)
 Central New Mexico Community College (CNM)

No Response Received

New Mexico Institute of Mining & Technology (NMIMT)

SUMMARY

Synopsis of SFI#1 Amendment

The Senate Floor amendment to Senate Bill 41 strikes the Senate Judiciary amendment and instead adds language specifying that a research park corporation shall be deemed a public employer “if it owns, operates or manages a health care facility or employs individuals who work at a health care facility.” This amendment would make both UNM’s Sandoval Regional Medical Center, Inc., and the UNM Medical Group, Inc., a physician practice organization, subject to the state the Public Employees Bargaining Act rather than the federal National Labor Relations Act as they currently are. No other university research park corporations would be held to the changes in Senate Bill 41.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 41 adds language specifying that a

research park corporation shall be deemed a public employer for the purposes of the Public Employee Bargaining Act only if it is a health care facility that is owned, operated, or managed by a research park corporation.

Synopsis of Original Bill

Senate Bill 41 amends the University Research Park and Economic Development Act to make it so that research park corporations are subject to the Public Employee Bargaining Act. This bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

There could be fiscal implications for a higher education institution if employees at Sandoval Regional Medical Center and UNM Medical Group were to unionize.

SIGNIFICANT ISSUES

SB41 is a bill that relates to ongoing litigation. In August 2021, the administration of the Sandoval Regional Medical Center refused to recognize a petition to form a union filed by United Health Professionals of New Mexico, a local affiliate of the American Federation of Teachers, on the basis that it is not a private employer under the University Research Park and Economic Development Act.

UNM provided the following summary of the legal proceedings following that decision by the Center.

On December 9, 2021, the New Mexico 2nd Judicial District Court found that UNM Sandoval Regional Medical Center, Inc., as a university research park corporation, was not a public employer and that the Public Employees Labor Relations Board (“PELRB”) lacked jurisdiction to consider the union’s petition seeking to establish a collective bargaining unit at that research park corporation. As a part of the Writ of Mandamus, the District Court ordered the PELRB to immediately dismiss the petition and an additional petition relating to another group of employees filed by the same union. The PELRB followed the Court’s order and dismissed the Petitions. Shortly after, the union filed a petition with the New Mexico Supreme Court for a Writ of Superintending Control seeking to overturn the District Court Judge’s issuance of the Writ of Mandamus; a Notice of Appeal of the District Court’s decision to the New Mexico Court of Appeals; and a Motion to Reconsider with the District Court.

UNM also reported that if the courts uphold that Sandoval Regional Medical Center is a private and not public employer, the employees of Medical Center could still organize and collectively bargain under the National Labor Relations Act rather than through the state Public Employee Labor Relations Board.

According to the Higher Education Department, all employees at research park corporations are eligible to form a union under the National Labor Relations Board. SB41 would allow employees at the affected research park corporations to unionize under the provisions of the New Mexico Public Employee Labor Relations Board. The main difference is the procedure for having a

union approved. Under the PELRB, employees submit cards indicating their support for forming a union. If cards from 51 percent of all employees support forming a union, then the union can be certified. Under NLRB, once 51 percent of all employees submit cards supporting the formation of a union, an election is triggered where current employees can then vote on creating the union or not.

According to the PELRB practice manual, there are other notable differences between the New Mexico PEBA and NLRA, including that the New Mexico PEBA provides for payroll deduction of union dues as a mandatory subject of bargaining if either party chose to negotiate the issue and the right to file a petition for decertification being limited to members of the certified union. Because the NLRA is oriented toward the private employer-employee relationship, the PEBA includes protections of the public interest and “orderly operation and functioning of government” by prohibiting strikes, slowdowns and lockouts, as well as the picketing of the homes and businesses of elected officials and public employees that do not exist in the NLRA.

There are nine research park corporations under four universities in New Mexico. Each is financially accountable to the respective institution, and the board of regents of each institution controls the finances. They are:

- **University of New Mexico:** STC.UNM, Lobo Development Corporation, Lobo Energy, Inc., University of New Mexico Medical Group, Sandoval Regional Medical Center, and Innovate ABQ, Inc.
- **New Mexico State University:** Arrowhead Center, Inc.
- **New Mexico Institute of Mining & Technology:** New Mexico Institute of Mining & Technology Research Park Corporation
- **Central New Mexico Community College:** CNM Ingenuity

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