

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR Lujan LAST UPDATED 2/16/2023
ORIGINAL DATE 2/13/2023
BILL House Bill
SHORT TITLE Farm & Ranch Laborer Workers' Comp NUMBER 330/aHAAWC
ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

New Mexico Racing Commission (NMRC)

New Mexico Livestock Board (NMLB)

New Mexico Workers' Comp Administration (WCA)

SUMMARY

Synopsis of HAAWC Amendment to House Bill 330

The House Agriculture, Acequias and Water Resources Committee Amendment to House Bill 330 restores the term “and construed to be” as used in the original bill in subsections D and E.

Synopsis of Original House Bill 330

House Bill 330 (HB330) amends Section 52-1-6 NMSA 1978 of the Workers' Compensation Act to remove the statutory exclusion of farm and ranch laborers from workers' comp coverage. In addition, the bill clarifies language and includes gender neutral language in the existing statute.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

All employers of three or more workers are required to carry workers' compensation coverage in New Mexico. Employers actively engaging in activities required to be licensed by the

Construction Industries Licensing Act must have workers' compensation coverage, regardless of the number of employees. All employers subject to the insurance coverage requirements of the Workers' Compensation Act pay a quarterly assessment fee for each covered employee.

The 2016 decision impacted small farms and ranches by raising the costs for employers.

SIGNIFICANT ISSUES

The bill removes the unconstitutional language in statute to comply with current case law.

According to WCA, the current exception to required workers' compensation coverage for farm and ranch laborers was declared an unconstitutional violation of the New Mexico Constitution art. II, section 18 on an equal protection basis in *Rodriguez v. Brand West Dairy*, 2016-NMSC-029, 378 P.3d 13. This bill would remove that language from the statute.

NMRC noted *Rodriguez v. Brand West Dairy* held that the statutory exclusion of farm and ranch workers from the Workers' Compensation Act was arbitrary, capricious, and unconstitutional.

ADMINISTRATIVE IMPLICATIONS

WCA is tasked with ensuring efficient delivery of benefits, at a reasonable cost to employers.

OTHER SUBSTANTIVE ISSUES

NMRC noted it is unclear if the removal of the exclusion of farm and ranch workers from Workers' Compensation law protection will translate into jockeys and exercise riders being eligible for workers' compensation insurance. Specifically, workers' compensation law and coverage applies to "workers", and not "independent contractors". Also, employers are required to secure and maintain workers' compensation insurance when they employ three or more "workers". Horse owners and trainers might also argue their horse racing businesses do not fit within the definitions of either "farm" or "ranch" as they apply to workers' compensation statutory and case law.

NMRC also noted that Senate Bill 336 proposes to codify the recently struck down, long-standing practice of NMRC utilizing gaming tax monies to offset the horse racetracks' purchase of medical insurance coverage for jockeys and exercise riders, which might be a better process for ensuring jockeys and exercise riders have medical insurance coverage. Allowing jockeys and exercise riders to secure medical coverage via the horse racetracks for the running of the meet removes altogether the issue of "workers' versus "independent contractors" under workers' compensation insurance.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

WCA believes keeping the language risks confusion on the status of New Mexico law on the requirement of workers' compensation insurance regarding farm and ranch laborers.