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FISCAL IMPACT REPORT

SPONSOR Trujillo/Szczepanski/Alcon/Borrego/
Gallegos LAST UPDATED _____
ORIGINAL DATE 2/17/2023

SHORT TITLE Parole Board Service Compensation BILL NUMBER House Bill 380

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMPB	No fiscal impact	\$175.0	\$175.0	\$350.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)

New Mexico Parole Board

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of House Bill 380

House Bill 380 (HB380) amends Section 31-21-24 NMSA 1978 as it pertains to parole board compensation. The bill proposes to compensate members of the parole board \$45 per day for up to four hours for service and \$95 a day for four hours or more of service, in addition to per diem and mileage for non-salaried public officers, as currently provided in the Per Diem and Mileage Act.

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

The current House Appropriations and Finance Committee Substitute for House Bill 2 includes an additional \$84.1 thousand from the general fund for the parole board in FY24, an increase of 13.1 percent, primarily for personnel. The substitute bill funded all 6 FTE positions, whether filled or unfilled, and did not include \$175 thousand to cover the compensation increases in this bill.

DFA noted the additional compensation payments would be reportable to the IRS on Form 1099.

SIGNIFICANT ISSUES

The parole board consists of 15 members and no member shall be an official or employee of any other government entity. Members currently receive per diem and mileage and no other compensation, perquisite, or allowance. Although the parole board is administratively attached to NMCD, it is an independent agency responsible for any increased compensation due its members.

According to the parole board, the intent of the bill is to compensate parole board members for actual service conducted, on behalf of the board, at a time when the board's duties and workload is increasing based on changes in law, including additional sex offender parole review hearings.

The parole board said hearing preparation and file review by members is critically important work, particularly when an individual's liberty interests, public safety, and victims' rights are at stake.

PERFORMANCE IMPLICATIONS

Timely parole hearings also effect operations of prisons and probation and parole departments.

ADMINISTRATIVE IMPLICATIONS

The parole board currently has three vacancies and reports challenges attracting applicants. At present, New Mexico is the only state in the region that does not compensate its parole board members. The parole board said this bill is essential to ensuring the board is not solely comprised of financially-advantaged volunteers determining the fate of some of the most disenfranchised members of society. If passed and signed into law, the bill will have a positive impact on the composition of the board by encouraging a larger pool of well-qualified parole board member applicants.

TECHNICAL ISSUES

The bill uses the term "actual service" to determine additional payouts. DFA believes this should be defined in statute as it is unclear what this means. DFA is also concerned this could lead to duplication of payment for days where a board meeting is held. Without defining what "actual service" means, one could request per diem and service pay on the same day as nothing in the bill prohibits that practice. Additionally, this could set a precedent for other boards and commissions that do not receive compensation outside of per diem payments. DFA suggested removing the section related to per diem payments and adding a specific stipend per day, similar to what is done for the taxation and revenue boards, where payments are issued per day without per diem.

OTHER SUBSTANTIVE ISSUES

The parole board held 2,676 hearings in FY22, a 10 percent decrease compared with FY21. However, the share of parole hearings resulting in a parole certificate fell from 74 percent to 66 percent; and the share of parole revocation hearings held within a month of a parolee's return to

custody fell from 90 percent to 63 percent, which means that over 300 parolees re-arrested were deprived of their liberty for over a month without an opportunity to challenge their detention.

AHO/al/ne/mg