

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: February 6, 2025

Check all that apply:

Bill Number: SB152

Original Correction
Amendment Substitute

Sponsor: Sen. Elizabeth "Liz" Stefanics, Rep. Stefani Lord, Rep. Anita Gonzales

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing Analysis: Victor Hall

Short Title: County Petition for Cannabis License Pause

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: SB152 allows for counties to petition the Cannabis Control Division of the Regulation and Licensing Department for a moratorium on new cannabis producer licenses. SB152 consists entirely of a proposed new section to the Cannabis Regulation Act (“CRA”), divided into three subsections.

Section A allows for a board of county commissioners to vote to petition the division to impose a two-year moratorium on the issuance of new cannabis produces licenses in that county.

Section B provides the procedure by which a county will submit the petition and the petition’s disposition by the division, including a time deadline of ten days after approval by the county and a time deadline for the division to render a decision. This provision also would mandate that, if the petition is approved, the division shall not issue new cannabis production licenses for the two-year period of the moratorium.

Section C allows for a county to petition the division to end the moratorium before the two-year period has run if the county commission determines that the moratorium is no longer necessary.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SB152 appears to present a conflict with the CRA. The CRA prescribes what a local jurisdiction, including a county, may and shall not do. Specifically, the Cannabis regulation act stipulates that a local jurisdiction shall not “completely prohibit the operation of a licensee.” NMSA 1978, §26-2C-12(B)(2). As written, SB152 would contemplate exactly that by prohibiting the issuance of a cannabis producer licenses contingent on the interpretation of this provision.

The above provision notwithstanding, SB152 may offend preemption doctrines. Whether a law limits the power of home rule authority is a two-step process. *Smith v. City of Santa Fe*, 2006-NMCA-048, ¶9, 139 NM 410 The first question is whether the law in question is a “general law,” a law that applies generally throughout the state, relates to a matter of statewide concern, and impacts inhabitants across the entire state. *Id.* As the CRA is likely a general law, the next question is whether the statute “expressly denies” the home rule municipality’s authority. *Id.* ¶10. This can be determined by analyzing whether (1) the law evinces a clear intent to negate such

municipal power, (2) the law implies a clear intent to preempt that governmental area from municipal policymaking, or (3) whether the grant of authority to another body would make exercise by a home rule authority inconsistent with the statute. *Id.*, ¶10.

Here, SB152 would likely conflict and be preempted by the CRA, and therefore be void, because the CRA evinces a clear intent to restrict municipal power in certain acts. Additionally, the grant of authority to the counties to petition to restrict the issuance of cannabis producer licenses may intrude on the authority of the Cannabis Control Division to issue licenses, thereby being inconsistent with the statute.

PERFORMANCE IMPLICATIONS

None noted

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflict

None noted.

Duplication

None noted

Companionship

None noted.

Relationship

HB10 – RLD Cannabis Enforcement

HB112 Cannabis Licensure Changes

HB230 Cannabis Testing Certain Employees

SB89 Remove Cannabis Tax Incremental Increases

SB269 Cannabis Testing Certain Employees

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None noted.