

LFC Requester: \_\_\_\_\_

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**  
**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 2/17/2025 *Check all that apply:*  
**Bill Number:** S385-341 Original  Correction   
 Amendment  Substitute

**Sponsor:** Sen. Campos **Agency Name and Code** DFA-341  
**Short Title:** ATTORNEY GENERAL SERVICES FOR AGENCIES **Number:** \_\_\_\_\_  
**Person Writing** Ashley Leach, State Board of Finance Director  
**Phone:** \_\_\_\_\_ **Email** Ashley.Leach@dfa.nm.gov

**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
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Senate Bill 385 (SB385) aims to standardize the rates for legal services provided by the Attorney General to state agencies by aligning them with existing contractual rates used by the General Services Department's Risk Management Division.

- SB385 amends Section 8-5-2.1 NMSA 1978, which initially allowed the Attorney General to charge state agencies for legal services in non-criminal cases based on a fee schedule approved by the Department of Finance and Administration.
  - The amendment changes this to require that the rates for these services be equivalent to those in a current contract between the risk management division of the General Services Department and counsel providing legal services to the risk management division.

#### **FISCAL IMPLICATIONS**

SB385 does not provide any specific appropriations. However, based on the proposed changes, the fiscal implications of SB385 could include:

- **Standardization of Costs:** By aligning the rates for legal services with those in a current contract between the risk management division and outside legal counsels, SB385 could lead to more predictable and standardized costs for state agencies requiring legal services.
- **Potential Expenditure Increases:** The proposed fee schedule will likely increase the costs of state agencies. Currently, the Attorney General's Office does not have approved fee rates from the Department of Finance and Administration.
  - The General Service Department, Risk Management Division uses the following rates in legal services agreements:
    - Attorneys – Standard Litigation/Assist/Consult Assignments:
      - 0 to 1.99 years of experience: \$150.00 per hour
      - 2 to 4.99 years of experience: \$175.00 per hour
      - 5 to 9.99 years of experience: \$200.00 per hour
      - 10+ years of experience: \$225.00 per hour
    - Paralegals – Standard Litigation/Assist/Consult Assignments:
      - Meet the requirements of Supreme Court Rule 20-102 and are active members of the Paralegal Division of the New Mexico State Bar Association or Certification of having passed the National

Legal Assistant's Certifying Exam administered by the National Association of Legal Assistants: \$80.00 per hour

- Law Clerks – Standard Litigation/Assist/Consult Assignments:
  - Law Clerks who are in an ABA-accredited law school: \$60.00 per hour
  - Law Clerks with Juris Doctorates pending admission to the State Bar of New Mexico: \$80.00 per hour
- As an example of potential increased costs, in FY24, the State Board of Finance (SBOF) reviewed approximately 50 capital projects for funding with severance tax bonds. Historically, the SBOF has reviewed more than 1,000 capital projects each fiscal year. This occurred when capital projects were primarily funded with bond proceeds. The DOJ provided a review of around 15 percent of those projects.
  - While the Attorney General does not currently charge the SBOF fees, should it elect to do so, it is assumed it would charge the SBOF at the Standard Litigation/Assist/Consult Assignments rate of \$200 per hour for an attorney or attorneys with at least 5 to 9.99 years of experience.
  - This would have resulted in additional legal expenses of up to \$208,000 for FY24.
- State agencies may need to adjust their budgets to accommodate the new rates for legal services, which could impact their overall financial planning and resource allocation.

## **SIGNIFICANT ISSUES**

- **Application of Fees**
  - SB385 amends Section 8-5-2.1 NMSA 1978 to allow the Attorney General's Office to charge state agencies legal fees based on the General Services Department's Risk Management Division's legal contract rates.
    - As mentioned above, the Attorney General's Office has not requested approval from the Department of Finance and Administration for the legal services fee schedule. The Department of Finance and Administration is unaware of the Attorney General's Office charging state agencies for legal services.
    - Additionally, neither SB385 nor any other relevant statute defines the scope of "noncriminal cases requested by the agencies." A reasonable interpretation of SB385 would be to authorize the Attorney General's Office to charge state agencies for civil legal services provided to boards, commissions, districts, and committees of government as required by statute.

- Many statutes require state entities to request legal services from the Attorney General’s Office. It is unclear whether such requests are based on statutory requirements such as “the provision of legal services in noncriminal cases requested by the agencies.”
- Under § 8-5-2, NMSA 1978, The Attorney General has the unilateral authority to prosecute and defend any civil action in which the state, or any state officer, or head of state department, board, or commission, or employee in their official capacity may be a party or interested in.
  - It is unclear whether SB385 would authorize the Attorney General’s Office to charge state agencies for civil legal services rendered in accordance with its authority under § 8-5-2.

#### **PERFORMANCE IMPLICATIONS**

N/A.

#### **ADMINISTRATIVE IMPLICATIONS**

N/A.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A.

#### **TECHNICAL ISSUES**

- **Publication of Applicable Rates:**
  - Currently, the General Services Department Risk Management Division does not set legal services rates based on rule-making authority or publish applicable rates.
  - Without rules governing the process for setting legal services rates and/or publication of applicable rates, state entities will struggle to budget anticipated legal costs.

#### **OTHER SUBSTANTIVE ISSUES**

N/A.

#### **ALTERNATIVES**

N/A.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Department of Finance and Administration would still need to approve fees set and charged by the Attorney General for legal services in noncivil cases.

**AMENDMENTS**

N/A.