

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Recurring	General

(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

Synopsis:

The first 12 sections of HB432 create the “Employee Preference Act.” The Act provides that a person shall not be required, as a condition of hiring, promotion or continued employment, to become or remain a member of a labor organization or pay dues, fees, assessments or other charges to a labor organization or to a charity or other third party, in lieu of payment to a labor organization. Employers are prohibited from requiring a person to be recommended or approved by or to be cleared through a labor organization as a condition of hiring, promotion or continued employment. An agreement, understanding or practice, written or oral, implied or expressed, between an employer and a labor organization that is in violation of the Act is unlawful.

The attorney general and the district attorneys shall investigate complaints and prosecute violations. They may bring an action for injunctive or other relief, and may bring criminal charges, in the district court for the county in which the violation is occurring (or will occur) or in the district court for Santa Fe County. A violation is a misdemeanor punishable by a fine of no more than \$1,000 or by imprisonment for a definite term of not more than 90 days, or both. A person injured or threatened with injury as a result of a violation or threatened violation may bring a civil suit for injunctive relief and damages.

The provisions of the Act do not apply where they would conflict with or be preempted by federal law.

HB432 also amends the Public Employee Bargaining Act to require that public employers comply with the “Employee Preference Act,” and to specifically provide that a public employer shall not require a public employee, as a condition of hiring, promotion or continued employment, to become or remain a member of a labor organization or to pay dues, fees, assessments or other charges to a labor organization or to a charity or other third party, in lieu of payment to a labor organization. HB432 also deletes from the Public Employee Bargaining Act the provision recognizing “fair share:” the payment to a labor organization, which is the exclusive representative of a bargaining unit, by an employee who is not a member of that labor organization equal to a certain percentage of membership dues to compensate the organization for its costs in negotiating and servicing the contract applicable to all employees in the bargaining unit.

HB432 provides severability clauses for both the “Employee Preference Act” and the Public Employee Bargaining Act. If any part is held invalid, the remainders of those acts shall not

be affected.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

HB432 requires the attorney general and the district attorneys to investigate and prosecute violations of the new “Employee Preference Act,” which will result in increased costs to those entities.

SIGNIFICANT ISSUES

HB432 removes financing for labor organizations by prohibiting any requirements for employees to join such organizations or pay dues to such organizations, and removes the “fair share” provision that enables such organizations to recoup costs for negotiating contracts from persons who benefit from those contracts but are not members of the labor organization and pay no dues.

The criminal provision makes it a misdemeanor to violate “a provision” of the “Employee Preference Act.” The prohibition against “an agreement, understanding or practice, written or oral, implied or expressed, between an employer and a labor organization that is in violation of” the act, is very broad. Under this provision, the attorney general and the district attorneys are charged with prosecuting implied understandings between an employer and a labor organization.

PERFORMANCE IMPLICATIONS

See Significant Issues, above.

ADMINISTRATIVE IMPLICATIONS

See Significant Issues, above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None found.

TECHNICAL ISSUES

None found.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Labor unions will be able to function in New Mexico.

AMENDMENTS

None proposed.