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| LFC Requester: | Clark, Jon |
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**AGENCY BILL ANALYSIS
2014 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date January 31, 2014
Bill No: HB273-305 Feb 3

Sponsor: Reps Martinez & Papen **Reviewing** Attorney General's Office
Short Economic Development Grant **Person Writing** Charles B. Kraft
Title: & Program **Phone:** 827-6079 **Email** ckraft@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY14 | FY15 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HB 272

Duplicates/Relates to Appropriation in the General Appropriation Act:

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY14 | FY15 | FY16 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to:

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY14 | FY15 | FY16 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

HB 273 creates a grant program with the purpose of matching state grants to local and regional economic development agencies to help expand economic development and job creation. The grant program is created within the Economic Development Department and overseen by the Economic Development Commission (the “Commission”). *See generally* NMSA 1978, Sections 9-15-1 through -56. HB 273 requires that the Commission manage grant applications, develop procedures needed for their management, review grant applications, award grants to local and regional economic development agencies, and monitor the use of all grants the Commission awards. HB 273 also sets forth minimum requirements for grant applications submitted to the Commission.

HB 273 establishes the “economic development grant fund,” which consists of appropriations, gifts, grants, and donations to the fund and income from investment of the fund. These monies cannot revert to any other fund set up by the state. The fund is administered by the Economic Development Department.

Lastly, HB 273 amends NMSA 1978, Section 9-15-11, to require the Commission to oversee the economic development grant program as specified in the Economic Development Grant Act and to review and approve applications for grants pursuant to the Economic Development Grant Act.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

N/A

SIGNIFICANT LEGAL ISSUES

No significant legal issues noted.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

N/A

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

N/A

TECHNICAL ISSUES OR DRAFTING ERROR

N/A

OTHER SUBSTANTIVE LEGAL ISSUES

HB 273, Section 9 states that “[i]t is necessary for the public peace, health and safety that this act take effect immediately.” The declaration in HB 273 that economic development and the issuance of grants is an emergency could be problematic. Under our state Constitution, “[n]o bill, except bills to provide for the public peace, health and safety . . . shall become a law unless it has been printed, and read three different times in each house, not more than two of which readings shall be on the same day, and the first of which shall be in full.” Const. Art. IV, § 15. The designation of HB 272 as “necessary for the public peace, health and safety” because economic development and job creation is an emergency (HB 272, Section 2) is questionable. Generally, “laws providing for preservation of public peace, health, and safety are essentially police measures and represent an exercise of [police power].” *See State ex re. City of Albuquerque v. Lavender*, 1961-NMSC-096, ¶ 24. However, the New Mexico Supreme Court also granted the legislature flexibility, in that it recognizes that “large discretion is necessarily vested in the Legislature to determine, not only what the interests of the public require, but what measures are necessary for the protection of such interests.” *Id.* (citing *State v. Spears*, 1953-NMSC-033, ¶ 21) (internal quotations omitted). While it does not appear that economic development and the issuance of grants to that effect is an emergency, as it is not a police measure, the legislature is granted flexibility in this regard. Notwithstanding, because this is a potential legal issue, the designation of an emergency should be dropped and an effective date of implementation should be instituted.

ALTERNATIVES TO ENACTING THIS BILL

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS NEEDED TO IMPROVE THIS BILL

N/A