

<b>LFC Requester:</b>	Martinez JR, Rick
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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** Feb. 4, 2014  
**Bill No:** HB293-305 Feb 4

**Sponsor:** Rep. Candy Spence Ezzell                      **Reviewing**    Attorney General's Office  
**Short**        Racing Commission Hearing                      **Person Writing**    Tania Maestas  
**Title:**        Procedure    **Phone:** 505-827-6024    **Email** tmaestas@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:

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)**

	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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:

House Bill 293 amends the Horse Racing Act, Chapter 60, Article 1A, NMSA 1978 to require a hearing officer to conduct and decide administrative hearings. House Bill 293 also creates the Horse Racing Appeal Fund.

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

N/A

**SIGNIFICANT LEGAL ISSUES**

Section 1, Page 5, Lines 9-10 states that a contracted hearing offer shall “render final administrative decisions on the commission's behalf.” Section 2, Page 7, Lines 22-23 also state “The decision shall be conclusive on the commission.” These statements appear contrary to the New Mexico Open Meetings Act. Section 10-15-1(H)(1) of the Act states, “All final actions on the issuance, suspension, renewal or revocation of a license shall be taken at an open meeting”. As such, all final decisions or actions on disciplinary actions should be taken by a quorum of the Racing Commission in an open meeting.

**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**

Senate Bill 252 – Duplicate

House Bill 100 – Related to Horse Racing

Senate Bill 116 – Related to Horse Racing  
Senate Bill 149 – Related to Horse Racing

**TECHNICAL ISSUES OR DRAFTING ERROR**

N/A

**OTHER SUBSTANTIVE LEGAL ISSUES**

The Racing Commission currently has administrative rules in place that allow for the Racing Commission to appoint and contract with a hearing officer for adjudicatory hearings. NMAC 15.2.1.9 requires that the hearing officer be a licensed attorney who timely submits a hearing officer's report with findings of fact and conclusions of law to the Racing Commission for deliberation and final disciplinary action, in accordance with the Open Meetings Act.

**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