

LFC Requester:	Boerner, Christine
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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 2/7/14
Bill No: HB341-305 Feb 7

Sponsor: Rep. Mimi Stewart **Reviewing** Attorney General's Office
Short Sunshine Portal Contracts **Person Writing** Phillip Baca
Title: _____ **Phone:** 827-6000 **Email** pbaca@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)

	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: House Bill 341:

(1) Amends the Sunshine Portal Transparency Act to require the disclosure of more contract details, such as the names and wages of all contractor and subcontractor employees; this Amendment would only apply to state contracts over \$20,000 and contracts involving state land [Section 1].

(2) Amends the Procurement Code to require contracts to include provisions that: require government contractors to maintain all records relating to government contracts and provide that those records are subject to the Inspection of Public Records Act; and provide that meetings between a government contractor and a policymaking body of a state agency or local public body are subject to the Open Meetings Act [Section 2].

(3) Adds a new section to the Procurement Code that requires a cost benefit analysis prior to awarding a contract "for services that will replace the provision of similar services by public employees" [Section 3].

Section 1 only applies to state agencies, while Sections 2 and 3 apply to contracts by local bodies as well as state agencies.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

There are no fiscal implications for this agency.

SIGNIFICANT LEGAL ISSUES

The first mandatory contract provision added by SB 201 for records maintained by government records affirmatively makes certain records maintained by private government contractors public available for public inspection through the contracting public bodies. These requirements will apply only to government contracts covered by the Procurement Code.

The second mandatory contract provision for meetings between and government contractor and a policymaking body of state agency or local government body merely states the existing law. The Open Meetings Act currently applies to all meetings between government policymaking bodies and

government contractors, with certain exceptions. See Section 10-15-1(H)(6) (exceptions from open meetings requirement for discussions relating to sole source purchases in excess of \$2500 and discussions of competitive sealed proposals during the contract negotiation process).

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

There are no performance implications for this agency.

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

There are no administrative implications for this agency.

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

This Bill duplicates SB 201.

TECHNICAL ISSUES OR DRAFTING ERROR

There are no technical issues or drafting errors.

OTHER SUBSTANTIVE LEGAL ISSUES

There are no other substantive legal issues.

ALTERNATIVES TO ENACTING THIS BILL

There are no recommended alternatives.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The status quo.

AMENDMENTS NEEDED TO IMPROVE THIS BILL

There are no recommended amendments.