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| <b>LFC Requester:</b> | <b>Marty Daly</b> |
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto: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**     **Amendment**      
**Correction**     **Substitute**   

**Date** February 19, 2015  
**Bill No:** HB 392-305

**Sponsor:** Rep. Kelly Fajardo                      **Agency Code:** Attorney General's Office  
**Short**        Audio & Video Stream of              **Person Writing**        Jennifer Salazar  
**Title:**        Public Body Meetings                      **Phone:** 827-6990              **Email** jsalazar@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

| Appropriation |      | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY15          | FY16 |                           |               |
|               |      |                           |               |
|               |      |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

| Estimated Revenue |      |      | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY15              | FY16 | FY17 |                           |               |
|                   |      |      |                           |               |
|                   |      |      |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

|              | <b>FY15</b> | <b>FY16</b> | <b>FY17</b> | <b>3 Year<br/>Total Cost</b> | <b>Recurring or<br/>Nonrecurring</b> | <b>Fund<br/>Affected</b> |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| <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**

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

**BILL SUMMARY**

Synopsis:

HB 392 would amend the Open Meetings Act, NMSA 1978, Section 10-15-1 through -4 to require live video and audio streaming of public meetings. Pursuant to Section 1 of the bill, “a board, commission, administrative adjudicatory body or other policymaking body conducting a meeting required to be a public meeting” shall provide for live video, or audio, transmission of public meetings no later than January 1, 2016. In addition, these entities must include information on where the audio/video transmission may be accessed in a notice of public meeting. The location of the live stream must be made available on a web site with free public access.

Under this bill, the Department of Information Technology (“DoIT”) is required to provide technical assistance, when requested, to a state policymaking body in order to implement the live video/audio transmission requirements. Under Subsection D of Section 1, DoIT must make a determination whether providing a live video and audio transmission of a public meeting is technically or logistically practicable; DoIT must issue its written determination to the affected entity. If the audio or video transmission of the meeting is determined to be impracticable, DoIT’s written determination shall exempt the entity from the requirement of live streaming for that particular meeting. Under Subsection E of Section 1, an entity may receive a twelve-month exemption from compliance with the audio/video transmission requirements if DoIT determines that the transmission is impracticable. Under Subsection E of Section 1, a state entity producing a video/audio stream must retain a copy of the audio/video stream in accordance with the entity’s retention and disposition schedule.

HB 392 exempts the following entities from compliance with the live video/audio streaming requirements: (1) a municipality with a population of less than fifteen thousand; (2) a county other than a Class A county; and (3) a political subdivision other than a county or municipality.

Pursuant to Section 2, the Legislature is required to provide the public with a live audio and video stream of its sessions unless the legislative council service determines, in writing, that the video/audio transmission is impracticable. In addition, the Legislature is required to produce an exact media copy of the live video/audio transmission of each public meeting and maintain it in accordance with its records retention and disposition schedule.

**FISCAL IMPLICATIONS**

N/A

**SIGNIFICANT ISSUES**

An audio/video record of a public meeting made pursuant to HB 392 would be subject to the Inspection of Public Records Act. See NMSA 1978, § 14-2-6(G)(defining “public records” to include “all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body”).

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 378 also proposes to amend the Open Meetings Act to allow for oral comment at public meetings.

**TECHNICAL ISSUES**

HB 392 inserts the term “institution” in Subsection B of Section 1 but does not offer a definition for the term.

Finally, as currently proposed, there is no time frame by which DoIT must issue a written determination referenced in Subsection D of Section 1.

**OTHER SUBSTANTIVE ISSUES**

N/A

**ALTERNATIVES**

N/A

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

Status quo

**AMENDMENTS**

N/A