

LFC Requester:	Marty Daly
-----------------------	-------------------

**AGENCY BILL ANALYSIS
2015 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 Amendment
Correction Substitute

Date Prepared: 3/13/15

Bill No: SB 719a

Sponsor: Sen. Linda M. Lopez

Agency/Code: Attorney General's Office

Person Writing Analysis: Betsy Glenn

Short Title: Open Meetings and Hospitals

Phone: 827-6425 Email: eglenn@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)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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:

The amendment to SB 719 deletes language in Section 1(B) that subjects meetings of a quorum of a hospital board held for the purpose of "taking any action within the authority of that board" to the Open Meetings Act ("OMA"). With the amendment, the provision subjects only meetings held for the purpose of "formulating public policy" to OMA.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

1. The amendment to SB 719 substantially limits OMA's application to public hospital boards. As originally drafted, SB 719 appeared to make OMA applicable not only to public hospital boards, which are currently covered by OMA, but also to boards of private hospitals that receive or are supported by public funds. OMA applies to meetings of a public body "held for the purpose of formulating public policy, ... discussing public business or for the purpose of taking any action within the authority" of the public body. NMSA 1978, § 10-15-1(B). The proposed amendment would effectively subject meetings of public hospital boards (and certain private hospital boards) to OMA's requirements only if they are held to formulate public policy.

2. The amendment to SB 719 creates ambiguity by narrowing OMA's application to meetings held to formulate public policy because it will require hospital boards to determine what constitutes "formulating public policy." Presumably, formulating policy includes discussing policy and taking action to implement the policy. It would likely be difficult for a hospital board to distinguish policy-formulating discussions and action, which would be subject to OMA, from other discussions and action that may not be covered by OMA. It is also likely that members of the public attending a board meeting would disagree with the board's characterization of its discussions and actions, which would make the board vulnerable to claims that it had violated OMA.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS