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FISCAL IMPACT REPORT

ORIGINAL DATE 3-03-09

SPONSOR Richard D. Vigil LAST UPDATED _____ HJM 75

SHORT TITLE Study Regulation Of Wind Facilities SB _____

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1			Non- Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)
New Mexico Environment Department (NMED)

No Response Received From

Public Regulation Commission
Regulation and Licensing Department

SUMMARY

Synopsis of Bill

House Joint Memorial 75 resolves that the New Mexico legislative council be requested to form a task force for the 2009 interim to study the need for improved regulation of commercial wind facilities in New Mexico. At least six members of the task force would be from communities that have been affected by the siting of wind energy facilities. The task force would make recommendations to the legislature by December 1, 2009.

FISCAL IMPLICATIONS

None suggested by EMNRD or NMED.

SIGNIFICANT ISSUES

NMED indicates that siting of energy facilities, including wind-powered energy projects, affects members of the communities nearby. Currently there is little oversight of siting of these facilities. Generally, siting of facilities in communities is left to the county or city that has planning jurisdiction. In addition, these facilities must be sited in areas that have the necessary wind resource to generate power. NMED further suggest that the State's coal-fired power plants emit contaminants into the air including oxides of nitrogen, sulfur dioxide, particulates, mercury and carbon dioxide. Those pollutants adversely impact public health, visibility and the global climate. Wind energy facilities may displace the need for as much coal-generated power, which would result in less air pollution, since wind energy facilities do not have significant air pollution emissions. Depending on the recommendations that are developed by the task force, it may become more difficult to site wind energy facilities within New Mexico.

EMNRD notes that, "HJM 75 states that wind power plants are 'almost completely unregulated.' However, wind power plants are required to have construction permits through the Construction Industries Division of the New Mexico Regulation and Licensing Department or the local building code authority. City and county governments have the authority to regulate land use and to issue ordinances to protect the environment and the interests of the public. Wind power plants are subject to many of the same regulations as other types of facilities concerning safety, wildlife, and dust control, noise and water runoff. Wind power plants are not subject to air quality regulations because they have no emissions. Wind power plants are subject to special guidelines and ordinances that have been adopted by some counties in New Mexico. The New Mexico Public Regulation Commission regulates power plants, including wind farms, of 300 megawatts capacity or greater. The siting of wind power plants and assessment of their environmental impacts have not been functions of New Mexico state government to date because all wind power plants in New Mexico are less than 300 megawatts capacity. Approval by the New Mexico Public Regulation Commission is not required for power plants of any type under 300 megawatts capacity, but is required for larger power plants including wind power plants."

ADMINISTRATIVE IMPLICATIONS

EMNRD advises that, "Although HJM 75 does not require EMNRD to participate in the task force; there may be administrative implications if EMNRD is requested to participate in the Task Force or play a supporting role. EMNRD currently does not have the staff resources to contribute significantly to such a task force."

PERFORMANCE IMPLICATIONS

NMED states that the department's Air Quality Bureau. "...has a legislative performance measure to reduce annual statewide greenhouse gas emissions. Similarly, the Governor's Accountability and Performance Contract contains goals for the reduction of greenhouse gas emissions. Finally, the Governor's Executive Order on Climate Change also contains goals for reduction of greenhouse gas emissions to 2000 levels by 2012, 10 percent below that by 2020 and 75 percent below 2000 levels by 2050. Increasing requirements for siting of wind generation facilities could make it more difficult to meet these measures."

EMNED indicates that there are no direct implications for EMNRD, but recognizes that it may be asked to provide technical information. EMNRD notes that, currently, it does not have the staff resources to contribute significantly to such a task force.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

NMED states, “A study of siting requirements for and impacts of wind energy facilities would not be conducted. Local governments (cities and counties) would continue to be responsible for properly zoning these facilities within their jurisdictions.”

EMNRD adds, “Continuation of land use regulation by local governments.”

AMENDMENTS

None suggested by respondents.

BW/mc