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## FISCAL IMPACT REPORT

**ORIGINAL DATE**  
**LAST UPDATED** 1/24/09 **HB** \_\_\_\_\_

**SPONSOR** Wirth

**SHORT TITLE** Remove Dental Amalgam From Wastewater **SB** 132

**ANALYST** Wilson

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	\$106.0	\$106.0	\$106.0	\$318.0	Recurring	Dental Board Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Environment Department (ED)

Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 132 creates the Dental Amalgam Waste Reduction Act (DAWRA) and amends the Dental Health Care Act. The DAWRA requires dental offices to install and use an amalgam separator system to remove dental amalgam before it is discharged to a wastewater stream, either public or private, by December 31, 2010. The bill further requires the Board of Dental Health Care (Board) to monitor the proper installation, operation, maintenance and amalgam waste recycling or disposal in accordance with an amalgam separator manufacturer's recommendations.

The DAWRA requires those dental offices that must install and operate an amalgam remover to report the installation to a local publicly owned water treatment facility, where applicable, and the BOARD. These dental offices must also report compliance with the Act to the Board every three years following installation.

SB132 also amends the Dental Health Care Act by granting the board authority to enforce the Dental Amalgam Waste Reduction Act (DAWRA) and the DAWRA requires the Board to initiate disciplinary proceedings for willful and persistent noncompliance with the provisions of the Dental Amalgam Waste Reduction Act.

## **FISCAL IMPLICATIONS**

RLD notes that this bill will require an increase in FTEs, resulting in an increase in fees to compensate for the additional services being conducted. Specifically, the Board will need an additional two FTE's to implement the reporting, data entry and site inspection requirements of SB 132 at an estimated cost of \$106,000 for personal services and benefits. Because the Board's operation is sustained through licensing fees an increase would be necessary to cover the cost of the added personnel.

## **SIGNIFICANT ISSUES**

Mercury is harmful to the central nervous system of humans and children. Children are more vulnerable than adults to mercury's toxic effects. Mercury has also been found in fish at concentrations that could lead to significant adverse human health effects, and mercury fish consumption advisories have been issued for more than 30 of New Mexico's surface waters.

The ED Pollution Prevention Program, in partnership with the Albuquerque Bernalillo County Water Utility Authority, completed a pilot project with two dental offices in Albuquerque. Amalgam separators were installed at both sites. Sampling was done prior to installation of the separator and sampling was done after installation. The average concentration of mercury in the clinic's waste stream before the use of the amalgam separator was 160.4 parts per billion (ppb). The average concentration of mercury after the installation of the separators was 5.78 ppb, showing a 96 percent removal efficiency. Any reduction of mercury discharged to the environment is beneficial to New Mexico's water quality.

DOH notes SB132 is consistent with the findings of the Mercury Exposure Reduction Task Force and the Dental Mercury Exposure Reports prepared as a result of memorials established by the 2006 Legislature. The conclusions of the Dental Workgroup for House Memorial 13 are consistent with the Mercury Reduction Plan Task Force for House Memorial 5. This includes the request of a statutory change requiring that all dental facilities in New Mexico that are engaged in amalgam replacement, removal or modification be equipped with amalgam separators to assure that little or no solid mercury drains into municipal wastewater or septic systems.

Dental offices that are not engaged in amalgam placement, removal or modification; an orthodontist; a periodontist; an oral maxillofacial surgeon; an oral maxillofacial radiologist; an oral pathologist; a dentist who will no longer operate a dental office after December 31, 2009; and a portable dental office without a fixed connection for wastewater discharge are exempt from the DAWRA.

## **ADMINISTRATIVE IMPLICATIONS**

This legislation adds several significant responsibilities to the Board. Specifically, monitoring amalgam remover installation, operation, recycling efforts by dental offices and most likely some disciplinary action.

RLD notes that if additional staffing is not provided provided, the Board will struggle to provide the current level of customer service.

DW/mc