

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13
 LAST UPDATED 03/15/13

SPONSOR Griego **HB** 204/aSCORC/aSFI#1/
Renewable Energy Certificates for Thermal **SB** aSFI#2

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	See Fiscal Implications		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)
 Energy, Minerals and Natural Resources Department (EMNRD)
 New Mexico Environment Department (NMED)

SUMMARY

Synopsis of SFI Amendment #2

The Senate Floor Amendment #2 strikes Senate Corporations and Transportation Committee amendments 1 and 3, which imposed restrictions on the additional renewable energy certificates (RECs) for energy produced from biomass, and also removes the language in the bill mandating those additional RECs. These changes now treat energy produced from biomass the same as energy from other sources without any special allocation of RECs for biomass.

Synopsis of SFI Amendment #1

The Senate Floor Amendment #1 changes the definition for “biomass resources” to exclude municipal solid waste. This resolves a substantial concern from the New Mexico Environment Department.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to Senate Bill 204 restricts renewable energy produced from biomass that qualifies for renewable energy certificates to

biomass electric generation facilities with a capacity rating of 10 megawatts or less or a thermal energy facility with a useful thermal energy rating of five megawatts or less. The amendment also alters the definition of “useful thermal energy” to include energy delivered to a residential geothermal end user.

Synopsis of Original Bill

Senate Bill 204 amends the Rural Electric Cooperative Act and the Renewable Energy Act to allow Renewable Energy Certificates (RECs) to be issued for thermal energy originating from biomass material used to generate electricity. Three thousand four hundred twelve British thermal units (3412 BTUs) of useful thermal energy is equivalent to at least one kilowatt-hour for purposes of compliance with the renewable portfolio standard. The definition of “biomass resources” is amended to mean organic material that is available on a renewable or recurring basis and expands what is included as a biomass resource to include forest-related materials, agricultural-related materials, animal waste, solid woody waste materials, crops and trees planted or the purpose of being used to produce energy, landfill gas, wastewater treatment gas and biosolids, and segregated municipal solid waste, excluding tires and medical and hazardous waste. Renewable energy produced from biomass that utilizes the majority of its feedstock from forest-related material shall receive an additional renewable energy certificate per unit of energy above the normal allocation.

FISCAL IMPLICATIONS

The creation of a thermal energy REC based on biomass resources may increase interest in the Agricultural Biomass Tax Credit [NMSA 1978, 7-2A-26], which has not been utilized so far. Possible levels of utilization of the tax credit, and resulting tax expenditures for the state, are difficult to ascertain with no historical basis for comparison. However, the tax credit imposes an annual cap of \$5 million, limiting the state’s exposure; companies are able to carry forward unused credits up to four years.

SIGNIFICANT ISSUES

Analysis from the Solid Waste Bureau of the New Mexico Environment Department (NMED) contains the following issues.

- 1) A biomass facility that wishes to burn segregated municipal waste or medical waste as a fuel source will have difficulty siting and permitting such a facility in New Mexico. The NMED plans to participate in stakeholder meetings after the legislative session to see whether mutually acceptable resolutions can be developed to resolve this concern.
- 2) Passage of this bill would require revision to the air quality solid waste incineration rules because combustion of solid waste results in emission of air pollutants including hazardous air pollutants that must be managed by a rigorous air pollution control system. Although this bill excludes “hazardous waste” from “segregated solid waste” this would not resolve this issue because burning certain nonhazardous wastes that are in municipal solid waste (such as plastics) can generate hazardous wastes in the air emissions even though the original solid waste did not include material that was classified as hazardous waste.

- 3) Inclusion of many forms of solid waste as part of the definition of biomass triggers very restrictive facility siting criteria based on the existing solid waste rules. Burning solid waste is defined in statute as “transformation” and transformation facilities cannot be located near population centers where municipal solid waste is generated.
- 4) The NMED plans to participate in meetings with stakeholders after the legislative session to address its concerns with the existing statutory authorization for use of riparian vegetation as biomass which could negatively impact stream water quality.

Generation of electricity through the use of renewable energy presents opportunities to promote energy self-sufficiency, preserve the state's natural resources, and pursue an improved environment in New Mexico. Public utilities may recover reasonable costs incurred to procure or generate energy from renewable energy resources used to meet the requirements of the Renewable Energy Act. At the same time ratepayers are protected from renewable energy costs that are above a reasonable cost threshold.

Analysis from the Energy, Minerals and Natural Resources Department (EMNRD) shows the availability of additional RECs for thermal energy generation would assist in creating a market for thermal energy biomass-source power plants across New Mexico. Biomass resources associated with rural areas could become a valuable commodity that could be transported economically to small- to medium-size biomass power plants. Utilities serving rural areas could implement these smaller power plants to assist them in meeting New Mexico’s Renewable Portfolio Standard. The power plant development and operation could potentially create economic development opportunities and jobs throughout the state. Waste materials that are currently creating environmental issues could be converted into resources for thermal energy end uses, including electricity generation.

ADMINISTRATIVE IMPLICATIONS

The NMED would need to develop rule revisions to existing air quality municipal waste incineration rules, requiring significant staff time -- valued at up to \$30 thousand according to the NMED estimates.

The proposed amendments to the Renewable Energy Act would necessitate revisions to the Public Regulation Commission’s (PRC) Renewable Energy Rule, 17.9.572 NMAC.

The EMNRD may be asked to provide technical assistance for evaluating potential projects through its existing programs in the Energy Conservation and Management and Forestry divisions, and in collaboration with the USDA Forest Service.

TECHNICAL ISSUES

The NMED proposes the following amendments to this bill.

- 1) The NMED recommends that the term “landfill gas” be removed from the definition of biomass resources and placed in the definition of “useful thermal energy.”
- 2) Landfills should also be included as an eligible entity for participating in a renewable energy credit if gas is used to generate electricity or to power generators.

OTHER SUBSTANTIVE ISSUES

The EMNRD reports this bill could also provide an additional economic boost to the dairy industry. Because manure animal waste is included as a biomass material, there would be an opportunity to combine this REC incentive with the Agricultural Biomass Tax Credit [NMSA 1978, 7-2A-26] incentive.

Additionally, the bill would help provide a market-based incentive to implement hazardous fuel reduction projects, such as forest thinning, within communities at risk of catastrophic wildfire in New Mexico. These incentives could assist with a struggling forest products industry and create a value-added product from waste materials. Currently, the woody biomass left over from hazardous fuel reduction projects lead to accumulation of fuel that can exacerbate wildfires and attract insects and diseases that negatively affect forest health in New Mexico's forests. If this bill is enacted, more projects might be conducted and more acres might be treated, ultimately resulting in communities that are more easily protected from wildfires.

The PRC raised the following issue in its analysis.

New Mexico statutes defines renewable energy to mean electrical energy generated by means of a low or zero emissions generation technology with substantial long-term production potential and generated by use of renewable energy resources. One significant issue is that renewable resources are an attempt to improve the environmental impact electric generation and to reduce fossil emissions. Some of the additional resources allowed by this bill do not accomplish this goal. Further, the addition of segregated solid waste is not consistent with the objectives of the renewable energy act as the level of pollutants may increase over and above existing fossil fuel resources. There are no environmental limitations in this bill to assure or protect that objective.

JC/svb:blm