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FISCAL IMPACT REPORT

SPONSOR Egolf ORIGINAL DATE 1/24/15
LAST UPDATED _____ HB 114
SHORT TITLE No False Statements to Environment Department SB _____
ANALYST Armstrong

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 114 enacts a new section of the Environmental Improvement Act, NMSA 1978, Section 74-1-1 to -17. HB114 authorizes enforcement action, including civil penalties of up to \$10,000 and other corrective measures, for false statements made to NMED by liquid waste permittees or applicants, liquid waste systems subject to permit requirements, and public water systems. The bill provides an exemption from monetary penalties for self-discovered and self-reported violations. HB114 also requires NMED to place a warning regarding penalties for making false statements on all forms used by persons regulated by the Department.

FISCAL IMPLICATIONS

NMED may have one-time costs to reprint and distribute updated forms and documents to the regulated community. However, these costs can be covered under current funding levels and it is unlikely the department would face any recurring expenses other than periodic costs for enforcement of the newly enacted prohibition. The Department can also accommodate these requirements with current resources.

SIGNIFICANT ISSUES

NMED periodically receives information which has been knowingly falsified from persons regulated by NMED in the areas of drinking water and liquid waste. False information submitted to the department can have serious public health consequences, lead to significant costs to innocent individuals and businesses, and compromise NMED's regulatory programs.

False information or omissions can have serious repercussions. NMED receives a large volume of technical information in making decisions under both its drinking water and liquid waste programs and often has to rely upon the correctness of that information. Without accurate information, facilities may be approved for an inappropriate location, activities may be permitted where they would not otherwise have been permitted, and NMED may fail to enforce when it should, compromising public health, safety, and welfare.

However, both the AGO and NMED raised concerns regarding Subsection A of Section 1 which could be interpreted as applying strict liability to regulated persons, regardless of intent, even if the result of a small oversight. NMED suggests the bill include language specifying the mental state necessary for the statute to be triggered, and that HB114 be amended to require regulated persons "knowingly" violate its provisions before a penalty is enforced. Moreover, AGO recommends amending the bill to define the terms "false statement" and "false representation."

PERFORMANCE IMPLICATIONS

Complete and accurate information submitted to the Department will enhance the ability of the Department staff to perform their jobs effectively and efficiently and will enhance the reliability of performance measures reported to the Legislature.

ADMINISTRATIVE IMPLICATIONS

NMED will be required to reprint and distribute forms used by regulated persons and will need to incorporate violations of these provisions into enforcement proceedings. The agency can accommodate that work with its current resources.

ALTERNATIVES

For programs within NMED which conduct activities under a federal delegation of authority, such as enforcement of the Safe Drinking Water Act, a knowing and willful false statement to NMED may lead to federal felony prosecution under 18 U.S.C. 1001.

JA/al