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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/2020

SPONSOR Steinborn/McQueen LAST UPDATED _____ HB _____

SHORT TITLE Radioactive Waste Consultation Task Force SB 95/aSJC/ec

ANALYST Wan

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$133.0	\$483.0	\$533.0	\$1,149.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)
 Energy, Minerals and Natural Resources Department (EMNRD)
 Department of Health (DOH)
 Environment Department (NMED)
 Department of Public Safety (DPS)
 Homeland Security and Emergency Management Department (HSEMD)
 Department of Transportation (DOT)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 95 adds a subsection to the section of the bill that specifies the duties of the Radioactive Waste Consultation Task Force. The new subsection clarifies that the authority of the task force and other state agencies with respect to federal or privately operated disposal or storage facilities are subject to the limitations of federal law and shall be consistent with federal law.

Synopsis of Original Bill

Senate Bill 95 amends the Radioactive and Hazardous Materials Act to expand the composition and duties of the Radioactive Waste Consultation Task Force (task force). The bill adds the secretary of homeland security and emergency management to the task force, which currently consists of the secretaries of energy, minerals and natural resources; health; environment; public safety; and transportation, as well as the state fire marshal, who is a nonvoting member.

SB95 expands the task force's scope to include review of federal license applications for privately operated radioactive material disposal facilities in New Mexico and evaluation of the public safety, environmental, health, infrastructure, and transportation impacts and requirements of the proposed facilities. Under SB95, the task force may also recommend legislation to implement the state's policies with respect to disposal facilities, a change from existing language that included only "new federal disposal facilities." The bill also requires the task force to meet annually, rather than regularly, with the interim radioactive and hazardous materials committee. SB95 also amends the definition of "high-level waste" to include "highly radioactive materials produced as a byproduct of the reactions that occur inside nuclear reactors, including spent nuclear fuel" and clarifies that the definition of "radioactive materials" includes high-level waste.

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

The Public Regulation Commission and the departments of transportation, public safety, and homeland security and emergency management report SB95 would have no fiscal impact on those agencies.

NMED estimates an operating budget impact of \$450 thousand annually to review federal license applications and evaluate environmental impacts as required by SB95. The estimated budgetary impact includes costs for personnel, training, and resources for 2 FTE to review a federal application, participate in public meetings, review complex technical data, conduct investigation work during the licensing process, and other associated duties.

EMNRD also anticipates a need for new staff to perform the review and evaluation required by SB95 at an annual cost of \$83 thousand. This amount would fund the salary and benefits of 1 FTE, an environmental scientist/specialist supervisor, to study the transportation, training, community response capabilities, and social justice impacts to spent nuclear fuel transportation.

SIGNIFICANT ISSUES

EMNRD submitted the following analysis:

"Currently, there are proposed radioactive and spent nuclear fuel projects in both the private sector and federal government that impact New Mexico. The federal government is seeking to dispose of surplus plutonium at the Waste Isolation Pilot Plant (WIPP); increasing transuranic waste production through the pit plutonium production program adding to the existing legacy inventory; and changing the definition of high level radioactive waste which will increase the overall inventory of radioactive material that can be designated as transuranic for disposal at the WIPP. A private entity has submitted a license to the Nuclear Regulatory Commission (NRC) requesting to operate an interim storage facility for commercial spent nuclear fuel in Lea County. The license is currently in the review process at the NRC. If approved, the material would come to New Mexico for up to 40 years with the option of license renewal in 20-year increments. Without a federal disposal site for high level radioactive waste or spent nuclear fuel, the commercial material at the interim storage facility may be stored indefinitely in New Mexico."

DPS expressed concerns that the definition of high-level waste presented in SB95 does not match the U.S. Department of Energy's definition of high-level radioactive waste and that the definition of radioactive materials used in the bill is too simplistic.

DHSEM noted that the definition of disposal used in SB95 does not match the definition used by the federal government, which may be important for state and federal collaboration.

PERFORMANCE IMPLICATIONS

NMED reports that utilizing current staffing, the additional activities required by the adoption of SB95 will draw from existing resources and reduce the available resources for current permitting, monitoring, corrective action investigation, compliance, and enforcement activities.

ADMINISTRATIVE IMPLICATIONS

SB95 directs the task force to review and investigate privately operated facilities seeking federal licenses for temporary or permanent disposal of radioactive material or waste. As discussed in the fiscal implications section, NMED and EMNRD anticipate a need for additional staff and resources to appropriately conduct reviews, investigations, and oversight.

TECHNICAL ISSUES

NMED notes:

“The Environmental Evaluation Group at NM Tech (EEG) (page 2, lines 3-6) has not been in existence since approximately April/May 2004, when DOE ceased funding them due to grant overruns.

SB95 does not specify if these requirements would apply to facilities already in the process of seeking a license, or only to new applications after the bill goes into effect.”

ALTERNATIVES

To prevent the task force from being restricted to meeting with the radioactive and hazardous materials committee more than once per year, DPS suggests revising Section 3, Subsection F to read “The task force shall meet at least annually with the committee and keep the committee apprised of all actions taken by the task force.”

CW/r/al