

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: Cisneros DATE TYPED: 02/27/01 HB _____
 SHORT TITLE: Renewable Energy Certification Act SB 655/aSCORC
 ANALYST: Dotson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 90.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

According to the Public Regulatory Commission, SB 266, conflicts with SB 655 which will delay the implementation of the Electric Utility Industry Restructuring Act of 1999 (Restructuring Act). Competitive retail marketing of renewable energy is not permitted without the Restructuring Act.

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	See Fiscal Implications			See Fiscal Implications

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Energy, Minerals and Natural Resources Department, New Mexico Public Regulatory Commission and an industry advocate.

SUMMARY

Synopsis of SCONC Amendments

The Senate Conservation Committee amendments clarifies the necessity to set the stage for the trading of renewable energy units. The amendments expand the definition of “renewable energy facility” to include all installed renewable generation in New Mexico prior to the effective date of the Renewable Energy Certification Act. The final amendment combines two paragraphs into one paragraph with no change in meaning.

Synopsis of Original Bill

SB 655 appropriates \$90.0 from the General Fund to the Energy Conservation and Management Division (Division) of the New Mexico Energy, Minerals and Natural Resources Department for the establishment of a renewable energy certification program. The renewable energy certification program, requires certification of renewable energy generating facilities, monitors and records the production of renewable energy generated within the state and encourages the development of renewable energy generation in the state.

Significant Issues

SB 655 is designed to encourage the production and use of renewable energy. The objective of this bill is to certify renewable energy facilities and record their contribution to the energy market in New Mexico. Verification and certification could result in valuable credits being established for renewable energy production, enhanced economic viability of renewable energy companies and new jobs and revenues for New Mexicans.

The definition renewable energy is very narrow excluding hydro, geothermal and biomass alternatives. Maximization of credits would include these alternatives.

According to an industry advocate, these other sources of “renewable energy” are sources that have a tendency to be controversial. There is no standard that applies nationally. Wind and solar are renewable sources that all parties agree on..

According to the Energy, Minerals and Natural Resources Department, reporting to federal agencies responsible for power plant siting, generation and transmission would be required.

According to an industry advocate, this only applies to generation or transmission on federal lands

According to the Public Regulatory Commission, SB 655 may not be needed, and it may become a burden due to the record keeping involved in the transactions. It may not encourage development and use of renewable energy sources.

According to an industry advocate, SB 655 does not require any state agency to keep detailed transactions. Utilities keep these records. This is normal for billing purposes.

According to a industry advocate, SB 655 is designed to encourage the production and use of renewable energy. The objective of this bill is to certify renewable energy facilities and record their contribution to the energy market in New Mexico. Verification and certification will result in valuable marketing being established for renewable energy production, enhanced economic viability of renewable energy companies and new jobs and revenues for New Mexicans.

PERFORMANCE IMPLICATIONS

According to the New Mexico Public Regulatory Commission, the language contained in lines 3 through 6, page 8 may restrict the powers of NMPRC to deal with competitive power suppliers it has issued licenses to.

According to an industry advocate, SB 655 does not deal with licensing issues. SB 655 deals with

certification of renewable energy only. The NMPRC has no such program. NMPRC licenses facilities. SB655 certifies the output of a renewable facility as producing renewable energy.

According to the Energy, Minerals and Natural Resources Department, creation of a separate program activity within ECMD would be necessary, with development of performance criteria to record output, outcome, efficiency, and quality measures.

According to an industry advocate, SB 655 deals with the certification of renewable energy units as its main function. ECMD will at least be able to verify standards, claims of source of generation and the overall renewable industry in New Mexico.

FISCAL IMPLICATIONS

The appropriation of \$90.0 contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the General Fund. The bill requires on-going monitoring and recording of renewable generation.

The affect on revenues is unknown, revenues from fines has not been estimated and it is unknown what fund or purpose the collected fines would serve.

According to the New Mexico Public Regulatory Commission, the appropriation may not be adequate given that the director has ongoing responsibility to monitor the facilities and record all transactions between the facilities and consumers.

According to an industry advocate, SB 655 does not mandate that the director is required to record all transactions between facilities and consumers. This is done through the natural process of billing. According to the Energy, Minerals and Natural Resources Department, expenses to cover an FTE, audits, an accounting system, and travel expenses for monitoring would be necessary to conduct the activities described in the bill summary.

ADMINISTRATIVE IMPLICATIONS

According to the Public Regulatory Commission, the arbitration provision of the bill may complicate NMPRC's ability to implement the Restructuring Act. NMPRC's rules for licensing competitive power suppliers may become complicated.

According to a industry advocate, the PRC has no mechanism to identify renewable energy. Again, this is only a certification program, not a licensing program. This program has benefits to rate-payers and competitive suppliers without electrical restructuring through "green tariff" price structuring.

According to the Energy, Minerals and Natural Resources Department, at least one new FTE would be required. Coordination with other state agencies and commissions with responsibility for power plant siting and generation and transmission monitoring and reporting would be necessary. Funds for travel, audits and design of an accounting system would be required. SB 655 specifies enforcement and imposition of fines, which could require changing the legal description of the duties of ECMD to include regulation and enforcement.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

According to the Public Regulatory Commission, SB 655 conflicts with SB 266, which is designed to

delay implementation of the Restructuring Act by 5 years. If SB 266 becomes law, retail consumers cannot purchase their power from renewable energy resources in a competitive market until January, 2007. Competitive transactions contemplated by SB 655 cannot happen till then.

According to an industry advocate, SB 655 does not address or interfere with SB 266. A competitive supplier can apply for a “Green Tariff” with existing laws which are simplified by SB 655. SB 655 functions in a regulated or unregulated environment.

TECHNICAL ISSUES

According to the Public Regulatory Commission the following technical issues exist:

1. Line 5, Page 4: “person” has not been defined. Is the assumed definition same as in Section 62-3-3E, NMSA 1978?
2. Line 8, Page 4: definition of renewable energy resource is limited to sun and wind. Small hydro, geothermal, biomass etc., were eliminated.
3. Lines 13 and 14, Page 5: “small” and “large” are undefined. According to an industry advocate, *Small is addressed in line 22 page 4. Large would mean anything that is not small.*
4. Line 11, Page 6: capable of generating 1 megawatt hour or more in what period of time? A facility of any size can generate 1 megawatt hour, given adequate amount of time.
5. Lines 15 and 21, Page 6: power may be delivered into a distribution line.
6. Line 12, Page 7: is there a strong reason as to why a renewable energy unit is defined as 1 MWh? According to an industry advocate, *that is an economical unit to measure and this is an industry standard.*
7. Lines 12 through 14, Page 8: recording sales and transactions between facilities and consumers in a competitive environment may be burdensome and intrusive. A one-time \$90,000 appropriation may not be enough for this on-going activity.
8. Line 19, Page 8: “renewable energy credit” is undefined.
9. Line 24, Page 8: there may not be a single date for the generation of a renewable energy unit.
10. Line 2, Page 9: conflicts with SB 266. If SB 266 becomes law, retail competition does not start until 2007. According to an industry advocate, *a competitive supplier can apply for a “green tariff” at any time under existing laws. There is no conflict with any laws. Public access to information does not conflict with present or future laws. Prevention of access of information to the public would be illegal.*

OTHER SUBSTANTIVE ISSUES

According to the Energy, Minerals and Natural Resources Department, conflicts could exist with current responsibilities of the New Mexico Public Regulation Commission (PRC) and other agencies (e.g., Environment Department) charged with power plant oversight and reporting. It should also be noted that a similar national renewable energy certification program (i.e., “Green-E Program”) operated by the Center for Resource Solutions of San Francisco, CA, exists. Additional information on this program is available at www.green-e.org. This program, however, would not afford the state the authority and control of a New Mexico-based program. Some of the program responsibilities contemplated under this legislation could be incorporated under the Green-E Program, run by the non-profit organization Center for Resource Solutions.

According to the Public Regulatory Commission, pursuant to Rules 570 and 571 of NMPRC, output

of renewable energy facilities must be purchased by the regulated public utilities. Therefore, even if this bill does not become law, electric power generation by renewable energy resources is not discouraged.

According to an industry advocate, the Green-E program would definitely conflict with existing laws. Green-E requires a Renewable Portfolio Standard (RPS). Many in the electrical industry would regard the Green-E program overly burdensome or costly. We have no RPS and will probably not see those set of laws. Again, SB 655 is a certification program, not a licensing bill; therefore there is no conflict. New Mexico's renewable industry certainly would be encouraged with SB 655. SB 655 is complementary to 570 and 571. This allows a utility to see an economic benefit from net metering. SB 655 also encourages competitive suppliers to build renewable energy facilities on a market base, not a burdensome mandate. This will help prepare New Mexico in a pro-active way for a deregulated or regulated market. Furthermore, New Mexico will be ready for export of a premium product to other states as their deregulation efforts progress.

PD/njw