NOTE: As provided in LFC policy, this report is intended only 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 for other purposes.

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR:	Martinez	DATE TYPED:	3/05/03	HB	563/aHBIC/aHJC
SHORT TITLE: Rural Electric		o-op Subsidiaries		SB	
ANAI				ST:	Valenzuela

## **APPROPRIATION**

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates Section 3 of Senate Bill 172 and House Bill 292, and Duplicates Senate Bill 350 Duplicates Senate Bill 464

### SOURCES OF INFORMATION

Office of the Attorney General Public Regulation Commission (PRC) Energy, Minerals and Natural Resources Department (EMNRD)

#### **SUMMARY**

# Synopsis of HBIC Amendment

The House Business and Industry Committee (HBIC) amendment to House Bill 563 clarifies the language in the original bill to ensure that total investments, loans, guarantees, and pledges of assets of a rural electric cooperative do not exceed 20 percent. The amendment also clarifies that the subsidiaries must still obtain all necessary state and federal regulatory approvals required to provide such service or product. Finally, the amendment clarifies that the PRC will not have regulatory oversight for rural electric cooperatives, in accordance with current law.

## Synopsis of HJC amendment

The House Judiciary Committee (HJC) amendment to the amended House Bill 563 clarifies that the PRC regulatory approval is not needed for the issuance, assumption or guarantee of any security where the federal government has oversight responsibility.

## Synopsis of Original Bill

House Bill 563 proposes three major changes to existing statutes:

- The bill amends the Rural Electric Cooperative Act and several sections of the Public Utility Act to allow rural electric cooperatives to create and invest in subsidiaries for limited purposes (energy services, telecommunications and cable and satellite television and wastewater collection and treatment) without approval of the PRC.
- The bill eliminates the requirement for rural electric cooperatives to seek PRC approval of federally approved securities.
- The bill repeals the delayed repeal (July 1, 2003) of the Public Utility Act, Chapter 63 Article 7 NMSA 1978, the Telephone and Telegraph Company Certification Act, the New Mexico Telecommunications Act, and the Cellular Telephone Services Act.

## Significant Issues

Subsidiary Diversification. Entrance into similarly regulated utility markets can be an opportunity and good fit for rural electric cooperatives to diversify its financial portfolio and potentially increase its profit margin. In fact, in rural areas, cooperatives may be a good choice as a service provider of new telecommunication products as an example, particularly in areas where incumbent or competitive local exchange carriers have been uninterested in providing services. On the other hand, risk could increase, leaving co-op members vulnerable to price fluctuations for the traditional electric services provided.

PRC Approval of Federally Approved Securities. By statute, rural electric coops already enjoy expedited processing of financing applications at the PRC without hearings for securities offered through an agency of the federal government. This bill would eliminate the obligation of the coop to seek prior approval from the PRC. Under existing Commission rules, coops would still be required to file notice with PRC when the coop submits loan applications to agencies of the federal government.

*Delayed Repeal Issue*. According to the PRC, allowing the delayed repeals to remain will eliminate price and quality of service regulation, which would create unregulated public utility monopolies.

# FISCAL IMPLICATIONS

House Bill 563 does not contain an appropriation. Its enactment is not expected to have a fiscal impact on any state agency.

Delayed Repeal Issue. The PRC points out a potential revenue loss if its regulatory authority is removed over public utilities. The agency receives approximately \$12 million annually in fees paid by utilities under the Public Utility Act and the other acts addressed in this bill.

### OTHER SUBSTANTIVE ISSUES

The Office of the Attorney General reports the following concern with the new subsection on Page 5, Subsection E:

. . .(the language) is much too broad in its exemption of securities approval from the PRC

# House Bill 563/aHBIC/aHJC -- Page 3

when the utility's securities "are subject to oversight and approval by the federal government or any of its agencies or subdivisions". This exemption could apply to other non-coop utilities if they have holding companies and their securities are subject to SEC ap proval and would detrimentally affect state regulation of investor-owned utilities. It should be reworded to limit the exemption from state PRC review to those securities are subject to oversight by the USDA Rural Utility Service<sup>1</sup>.

MFV/njw:yr

-

<sup>&</sup>lt;sup>1</sup> Under the authority of the federal Rural Electrification Act of 1936, the USDA Rural Utilities Service makes direct loans and loan guarantees to electric utilities to serve customers in rural areas for construction of electric distribution, transmission and generation facilities.