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F I S C A L   I M P A C T   R E P O R T

SPONSOR: King DATE TYPED: 02/28/03 HB 861

SHORT TITLE: Amend Utility Operators Certification Act SB

ANALYST: Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	**FY04**	**FY03**	**FY04**		
		See Fiscal Implications		Recurring	OSF

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	**FY04**			
	($31.5)	($31.5)	Recurring	General Fund
	$31.5 $263.5	$31.5 $263.5	Recurring	Public water supply system operator and public wastewater facility operator fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

Department of Environment (NMED)

SUMMARY

Synopsis of Bill

House Bill 861 proposes several amendments to the Utility Operators Certification Act that would transfer the duties performed, pursuant to this Act, by the New Mexico Water Quality Control Commission to the Department of Environment (NMED) and diverts application fees away from the general fund and into an existing fund (public water supply system operator and public wastewater facility operator fund), which would be appropriated to NMED. The bill also strengthens the enforcement provisions of the current Act.

Significant Issues

NMED, under both the federal Clean Water and Safe Drinking Water Acts, is required to perform a public water and wastewater utility operator certification program. The Surface Water Quality Bureau handles this function under a contractual relationship with the Construction Programs and Drinking Water Bureaus, which are the department leads for administration of the state programs related to both federal acts.

PERFORMANCE IMPLICATIONS

LFC has urged the Surface Water Bureau to develop performance measures related to this program for the FY04 budget recommendation. No measures have been included in the budget for this function.

FISCAL IMPLICATIONS

House Bill 861 does not contain an appropriation. Section 4 of the bill increases the statutory caps on the current fee schedule as follows:

	Current Fee	Proposed Fee
Certification Exam Fee	$ 25.00	$ 200.00
Issuance of Certificate	$ 10.00	$ 100.00
Annual Renewal Fee	$ 10.00	$ 200.00
Issuance of Certificate Endorsement	$ 25.00	$ 200.00

The department reports that, every year on average, its tests 1,000 operators, issues or renews 600 certificates, and issues 10 reciprocity endorsements, which would generate approximately $31.5. Applying these averages to the proposed fee schedule, the department could generate as much as $295.0, every year.

This section also diverts this revenue stream away from the general fund. The bill would appropriate this revenue stream to NMED. The LFC has communicated its serious concern to NMED about the special revenue funds appropriated to the department. Of the department's 15 special revenue funds, 14 are appropriated to the department. The LFC objects to including continuing appropriation language in the statutory provisions for special revenue funds. Earmarking reduces the ability of the legislature to establish spending priorities.

In fact, this problem has been particularly acute at NMED. The statutes governing the department's 14 special revenue funds allow the department to increase its budget from available cash balances without regard to the 4 percent limitation imposed in the General Appropriation Act. Through the use of this budget adjustment authority, the department in FY01 increased its budget by 18 percent via these special revenue funds; in FY02, it increased the budget by 19.6 percent. Already, in the first quarter of FY03, it has increased its budget by 13.3 percent. In essence, the department restores its budget to the level of its original request despite the intent of the legislative appropriation.

This budget adjustment activity has significantly dropped cash reserves to dangerously low levels. In fact, several bureaus are confronted in FY03 with drastically reducing spending because the cash is no longer available.

MFV/ls