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FISCAL IMPACT REPORT

SPONSOR: Maes DATE TYPED: 03/12/03 HB _____

SHORT TITLE: Motor Carrier Act SB 698/aSCORC/aSJC

ANALYST: Gilbert

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$0.1 See Narrative	\$0.1 See Narrative	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicate HB 880

SOURCES OF INFORMATION

LFC Files

Response Received From
Public Regulation Commission (PRC)

SUMMARY

Synopsis of SJC Amendment

Senate Judiciary Committee amendment to Senate Bill 698 clarifies that, in compliance with the Motor Carrier Act, the commission shall not implement safety requirements that are inconsistent with or more stringent than applicable federal safety standards.

SB 698/aSJC also removes language from the original bill that would have amended NMSA 1978, § 66-7-413(M) to only require motor carriers of manufactured homes to maintain warrants or single state registration receipts as evidence of certain insurance requirements. With this amendment, all motor carriers requesting oversize permits would need to maintain warrants or single state registration receipts as evidence of insurance.

Synopsis of SCORC Amendment

Senate Corporations and Transportation Committee amendment to Senate Bill 698 provides detailed definitions for “taxicab service” and “terminal shuttle service”.

Section 16. [new material] interstate motor carriers is amended as follows:

D. Compliance by an interstate motor carrier with the provisions of the federal Intermodal Surface Transportation Efficiency Act of 1991 shall not authorize a carrier to provide intrastate transportation services in New Mexico. An interstate motor carrier wishing to provide compensated transportation in intrastate commerce shall apply for the appropriate intrastate operating authority from the commission. A taxicab service or terminal shuttle service is engaged in nonexempt intrastate business within the state regardless of a prior exemption if its service provides, with regard to any service run, for both:

(1) initiation of the transportation of one or more passengers within this state; and

(2) delivery to a departure point within this state of one or more passengers whose transportation on that service run was initiated at a point within this state."

Section 38(D), pertaining to exemptions to the Motor Carrier Act, is amended to only exempt county and municipal bus transportation systems

Synopsis of Original Bill

Senate Bill 698 enacts a new Motor Carrier Act and repeals provisions of the current Act NMSA 1978, § 65-2-80 through NMSA 1978, § 65-2-127 and NMSA 1978, § 65-4-1 through NMSA 1978, § 65-4-18. The purpose of this bill is to comply with Federal preemption of former Public Regulation Commission (PRC) responsibilities relating to property carriers, clean-up language in the current Motor Carrier Act, make this Act consistent with the PRC Act, and to make needed revisions to the current Act.

Significant Issues

Key provisions of SB 698 (new Motor Carrier Act) are outlined below:

- Deletes sections of the former Act pertaining to regulation of motor carriers of property where authority for such regulation has been preempted by the Federal government.
- Creates a new type of operating authority (warrant) for motor carriers over which the PRC has limited authority.

- Adds authority for the PRC to suspend without notice or a hearing the operation authority of a motor carrier for failure to maintain appropriate insurance coverage or for violation of any safety requirement that would endanger public health or safety.
- Adds authority for the Motor Transportation Division to immediately order a motor carrier, without notice or a hearing, to take a vehicle out of service for violation of any safety requirements of Federal or state law or rules that would endanger the public health or safety.
- Simplifies terminology by changing certificates of public convenience and necessity to “certificate” and certificate of registration to “warrant”.
- Clarifies that the PRC has authority to issue certificates and permits without a hearing if no person protests the application and staff does not request a hearing.
- Adds provisions to permit electronic filing of documents and electronic payment of fees.
- Adds requirements that motor carriers applying for temporary authority have a complete application for permanent authority or for a change in their authority pending before the PRC.
- Adds provisions for compensation of witnesses appearing before the PRC pursuant to a subpoena.

FISCAL IMPLICATIONS

The PRC states that adoption of this bill will result in a small increase in revenue associated with a new \$25 fee for warrant applications.

ADMINISTRATIVE IMPLICATIONS

This bill would clarify and streamline PRC responsibilities under the Motor Carrier Act.

OTHER SUBSTANTIVE ISSUES

A PRC prepared side-by-side comparison of the current Motor Carrier Act and significant provisions of the proposed Act is attached.

RLG/yr:njw
Attachment

ATTACHMENT SB 698
PUBLIC REGULATION COMMISSION
2003 LEGISLATION MOTOR CARRIER ACT REWRITE
Agency Contacts: Avelino A. Gutierrez 827-4565
and Dave Baca 827-4048

F = Make consistent w/ Federal preemption
 C = Clean up of previously archaic language
 M= Make consistent with PRC Act or streamline
 N= No change
 A = Additions/Amendments to Motor Carrier Act

I. NEW MEXICO PUBLIC REGULATION COMMISSION RECOMMENDATIONS OF LAWS TO REPEAL

SECTION	DESCRIPTION	CURRENT STATUS	PROPOSED CHANGE
65-2-80 to 65-2-127	Motor Carrier Act	Repeal and replace	New Motor Carrier Act proposed-F,C,M,N,P,A
65-4-1 to 65-4-18	Motor Carrier Transportation Agents	Repealed, but not replaced	Not applicable-F

II. NEW MEXICO PUBLIC REGULATION COMMISSION COMPARISON OF CURRENT AND PROPOSED MOTOR CARRIER LAW

CURRENT SECTION	DESCRIPTION	NEW SECTION	PROPOSED CHANGE
65-2-80	Short title	65-2-128	Same as previous section.

65-2-81	Declaration of Policy	65-2-129	Essentially the same as previous section.
65-2-82	Definitions	65-2-130	<p>Many definitions changed, either modified, deleted, or added; “broker” eliminated-F, “certificate”-modified-F, “clerk”-M , “commission”-N, “common motor carrier”-C,F,P, “contract motor carrier”-C,F,P, “farm carrier”-C,F, “highway”-C, “household goods”-C,F, “interested parties”-C, “irregular route”-N, “lease”-, “license”-C, “motor carrier”-F,C,P, “motor vehicle”-F, “permit”-F,C,P, “person”-eliminated, “regular route”-C, “services”-C, “transportation”-eliminated, in substantive part of Motor Carrier Act, “shipper”,-N, “single-line rate”-eliminated, in substantive parte of Motor Carrier Act, “state”-eliminated, “towing company”-changed to towing services, “weight bumping” –C.</p> <p>POLICY QUESTION: Whether the definition of “commuter service” should be broadened to eliminate the requirement that the volunteer drivers determine the daily vanpool route and that the route generally begin at home and end at the individual workplace or training site?</p> <p>POLICY QUESTION: Whether the commission should require farm carriers to obtain a warrant instead of a certificate of registration? (This would be accomplished by listing the commodities carried under the current definition of “farm carriers” (requires a certificate of registration) under the definition of “property” (would require a warrant).)</p> <p>POLICY QUESTION: Whether the exemption from obtaining any authority from the commission in current law applicable to motor vehicles being used in the transportation of, or carrying a cargo consisting exclusively of, unprocessed farm products as a part of harvesting from the place of production to market or to storage or to a processing plant, be restricted to farmers only?</p> <p>POLICY QUESTION: Whether the commission should no longer require vehicle escort services to hold authority from the commission? (Same as POLICY QUESTION under § 66-7-413 below.)</p>
65-2-83	Powers and duties of commission	65-2-131	<p>POLICY QUESTION: Whether, unlike the current motor carrier act, the new motor carrier act should explicitly state that the Commission regulates safety? (§ 63-7-1.1 currently con-</p>

			tains explicit safety requirement.)
65-2-84	Certificate of convenience and necessity; requirement; standards for issuance	65-2-135, -136	F, C, M
65-2-85	Certificate of convenience and necessity; application; hearing and notice; protests	65-2-132, -133, & -135	F, C, M
65-2-86	Certificate of convenience and necessity; terms and conditions; removal of certain restrictions	65-2-131, -137	F, C, M
65-2-87	Permit; requirement; standards for issuance; contracts to be filed	65-2-137, -139	F, C, M
65-2-88	Permit; application; hearing and notice; protests	65-2-132, -133, & -140	F, C, M
65-2-89	Permit terms and conditions; not limit on number of contracts	65-2-131, & -137	F, C, M
65-2-90	Common carriers and contract carriers; dual authority to transport property	65-2-137, -142	F, C, M
65-2-91	Motor carrier brokers for transportation of property; license required; standards for issuance; rules and regulations; commission authority; exemptions	None	Proposed to be repealed-F.
65-2-92	Suspension, revocation or amendment of certificates, permits and licenses	65-2-141, -154	F, C, M POLICY QUESTION: Whether the Commission should be given the authority to immediately suspend, without notice or a public hearing, the operating authority of any motor carrier for failure to maintain appropriate insurance for violation of any safety requirement of the motor carrier act, the commission's rules, or the rules of the motor transportation division of the department of public safety if such violation would endanger the public health or safety? POLICY QUESTION: Whether the commission may, at the request of the owner, change the form of ownership of a certificate of public convenience or necessity or contract carrier permit without notice or hearing?

65-2-93	Transfers of certificates, permits and licenses	65-2-141	C, M POLICY QUESTION: Whether in a transfer of a certificate of public convenience and necessity or contract carrier permit, the transferee should be required to buy the operating equipment of the transferor? POLICY QUESTION: Whether the commission may at the request of the owner reinstate a certificate of public convenience or necessity or contract carrier permit following voluntary suspension without notice or hearing?
65-2-94	Power to grant temporary authority; notice to authorized carriers; hearings; requirements	65-2-138	POLICY QUESTION: Whether an applicant for temporary authority should be required to have a complete application for permanent authority pending before the Commission in order for the Commission to grant the temporary authority?
65-2-95	Household goods agents; responsibilities of carriers; complaints; investigations; hearing and notice; compliance; antitrust exemption	65-2-152	C
65-2-96	Establishment of just and reasonable rates and practices; joint rate; through routes; unreasonable preferences; suspension; complaints; rate standards	65-2-148	C, M
65-2-97	Filing of tariffs; deviations and refunds prohibited; tariff changes	65-2-141, -147	C, M
65-2-98	Motor carrier agreements; commission approval; requirement; antitrust immunity; termination	65-2-150	C, M
65-2-99	Rates; liability based on value	65-2-152	C, M
65-2-100	Motor carriers of property; receipts	65-2-152	C, M
65-2-101	Annual reports; access to information; production of information	65-2-156	C, M POLICY QUESTION: Whether the commission should have the authority to collect financial information as part of the annual report? POLICY QUESTION: If the commission is given the authority to collect financial information, whether the public should have access to such financial information?

65-2-102	Household goods carrier operations; regulatory requirements; protection of individual shippers; performance standards; estimates; weighing	65-2-152	C, M
65-2-103	Household goods rates; estimates; guarantees of service	65-2-152	C, M
65-2-104	Household goods carriers; dispute settlement programs; commission approval; requirements; attorney's fees	65-2-153	C, M POLICY ISSUE: Whether voluntary dispute settlement programs should apply to all household carrier disputes instead of only in the case of collect-on-delivery transportation of household goods?
65-2-105	Leasing of motor vehicle equipment; commission approval; appearance before commission; circumvention of laws or regulations	65-2-151	C, M POLICY ISSUE: Whether the new motor carrier act should contain a provision which requires the commission to specify by rule which of the two parties to a motor vehicle lease will be responsible for complying with financial responsibility and safety requirements?
65-2-106	Witnesses; fees and charges; attendance and testimony required; production of documents required; compelling attendance and testimony, oaths; certifications; subpoenas; service; quorum; investigation; taking testimony	65-2-158	C, M POLICY QUESTION: Whether witnesses appearing before the commission pursuant to a subpoena should be compensated as provided under the courts of this state?
65-2-107	Time schedules; approval by commission; failure to adhere to schedules; compliance with maximum speed limits	65-2-149	C, M
65-2-108	Discontinuance of seasonal operations; posting notice; abandonment of service; notice to commission; cancellation of certificate	65-2-141	C, M
65-2-109	Special rates for students and senior citizens; free transportation	65-2-157	C, M

	prohibited; exceptions		
65-2-110	Financial responsibility; ticket re-claim bonds; C.O.D. bonds; public liability and property damage; cargo liability and interchange charge liability bonds or insurance policies; self-insurance; amounts; considerations	65-2-145	C, M
65-2-111	Agent for service of process	65-2-155	C, M
65-2-112	Motor transportation division to furnish field information	65-2-156	C, M
65-2-113	Expenditures for administration	None	Proposed to be repealed-F.
65-2-114	Police powers for inspectors	65-2-131	C, M
65-2-115	Interstates carriers; certificate of registration; procedure	65-2-134, -143	C, M
65-2-115.1	Interstate carriers; establishment of single state registration system	65-2-134, -143	C, M
65-2-116	Farm carriers; registration; commission jurisdiction; applicability; exemptions	65-2-139	C, M
65-2-117	Orders to discontinue, rectify or prevent violations; administrative penalties; continuing violations; penalties cumulative; actions to recover fines	65-2-159	C,M POLICY QUESTION: Whether motor carriers of persons should also be liable for administrative fines of up to \$10,000 for <u>knowingly</u> utilizing a motor carrier not properly authorized by the commission? (Currently, only shippers are liable.)
65-2-118	Written orders; publication (repealed effective 1/1/99)	None	Not re-adopted
65-2-119	Effective date of orders (repealed effective 1/1/99)	None	Not re-adopted
65-2-120	Appeal to supreme court	65-2-162, 63-7-1.1	N
65-2-121	Criminal penalties; false statements; false reports; false entries; commission employee divulging information; weight-bumping; other violations; civil penalties for household goods violations; arrest	65-2-160	N

	and prosecution of violators		
65-2-122	Prior certificates and permits	65-2-167	C, M
65-2-123	Enforcement of orders	65-2-117, -131	C, M
65-2-124	Effect on interstate and foreign commerce	None	Not needed
65-2-125	Fees; refunds; disposition of receipts; forfeiture of deposits	65-2-163	C,M POLICY QUESTION: Whether the Commission should collect a \$25 fee for warrant applications?
65-2-125.1	Administration of fee collection and distribution	None	Propose to repeal
65-2-126	Exemptions	65-2-144, -165	C, M
65-2-127	Effect on municipal powers	65-2-166	C, M

III. NEW MEXICO PUBLIC REGULATION COMMISSION RECOMMENDATIONS OF ADDITIONAL MOTOR CARRIER ACT SECTIONS TO ENACT

CURRENT SECTION

DESCRIPTION

NEW SECTION

PROPOSED CHANGE

None	Use of equipment for common and contract motor carriage	65-2-137 F	POLICY ISSUE: Whether common and contract motor carriers may share equipment as long as common motor carrier service does not suffer? (Currently, contract motor carriers required to dedicate equipment to the contract and may not use that equipment in the provision of common motor carriage.)
None	Warrants	65-2-139	POLICY ISSUE: Whether motor carriers of property, commuter services, charter services, and towing services should be required to obtain a warrant as proof of compliance with safety and financial responsibility? POLICY ISSUE: Whether warrants should be cancelled if the owner fails to operate under the warrant for twelve consecutive months?
None	Safety requirements for motor vehicles and drivers used in com-	65-2-146	POLICY ISSUE: Whether the Commission should have authority to prescribe safety and driver requirements for motor

	pensated transportation		vehicles weighing 26,000 pounds or less or carrying 15 or fewer persons (including the driver) used by intrastate motor carriers? (No other state or federal agency has the authority to prescribe safety and driver requirements over this class of drivers and vehicles.)
None	Electronic filing and certification of documents; electronic payment of fees	65-2-164	POLICY ISSUE: Whether the new motor carrier act should contain provisions that allow for rules that provide for electronic filing and certification and electronic payment of fees?
None	Transition	65-2-167	
None	Effective date	Section to be assigned by Legislative Council Service	Propose effective date of July 1, 2003

IV. NEW MEXICO PUBLIC REGULATION COMMISSION RECOMMENDATIONS OF REVISIONS TO OTHER MOTOR CARRIER LAWS

CURRENT SECTION	DESCRIPTION	NEW SECTION	PROPOSED CHANGE
65-1-6	Field enforcement of motor carrier act and regulations	Same	C, M POLICY ISSUE: Whether the motor transportation division of the department of public safety should be required to enforce in the field the motor carrier act and rules promulgated under that act?
66-7-413	Permits for excessive size and weight; special notification required on movement of manufactured homes	Same	C, M POLICY ISSUE: Whether as a reflection of federal preemption of intrastate regulation of property, escort vehicles should no longer be required to hold authority from the commission?
66-8-116.2	Penalty assessment misdemeanors; motor carrier act	Same	Refer to currently issued authority from commission as finable offense-F