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FISCAL IMPACT REPORT

SPONSOR HAFC DATE TYPED 2/16/2004 HB 23/HAFCS/aHAFC
/aSCONC

SHORT TITLE Pipeline Safety Fund & Inspection SB _____

ANALYST Garcia

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			\$772.7 FY05 and beyond	Recurring	Pipeline Safety Fund

(Parenthesis () Indicate Expenditure Decreases)

The substitute is largely duplicative of SB 170.
 Relates to Appropriation in the General Appropriation Act for the Public Regulation Commission, Pipeline Safety Bureau FY05 operating budget.

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
		\$772.7	Recurring	Pipeline Safety Fund
		\$322.7	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From
 Public Regulation Commission

SUMMARY

Synopsis of SCONC Amendment

The Senate Conservation Committee Amendment to HAFC substitute for HB 23, as amended, would add the following language on page 2, line 8: “Not more than five percent of the fees collected pursuant to Subsection D of this section shall be used by the commission for administrative purposes.”

Fiscal Implications of SCONC Amendment

The SCONC Amendment would limit the amount of fees collected by the Pipeline Safety Bureau in the "Pipeline Safety Fund" to be used for costs of administering the fund. For FY06 and beyond, when the bureau is expected to raise fees to cover the costs of its base operations and expansion, the dollar amount available for administrative purposes from the fund is roughly \$38 thousand.

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee Amendment to HAFC substitute for HB 23 removes the appropriation in the bill.

Fiscal Implications of HAFC Amendment

The HAFC Amendment eliminates a \$450 thousand appropriation to the Pipeline Safety Bureau to pay for one year expansion costs. The appropriation was only a one time non-recurring general fund transfer to the bureau.

Synopsis of Bill

The bill establishes a non-reverting fund called the Pipeline Safety Fund (Fund), to pay for the operations of the Public Regulation Commission's (PRC) duties under the Pipeline Safety Act and Chapter 62, Article 14 NMSA 1978. The fund would be initially funded in fiscal year 2005 by an expansion appropriation from the general fund in the amount of \$450 thousand. Establishment of the fund will allow the PRC to expand the Pipeline Safety Bureau to conform to federally-recommended staffing levels and inspection cycles on intrastate pipeline facilities, with the eventual goal of assuming the inspection function on interstate pipeline facilities from the federal government.

The bill would allow the PRC to collect fees from regulated entities subject to the Pipeline Safety Act, which in FY06 and beyond is expected to supplant general fund support to the Pipeline Safety Bureau of the PRC. The bill further specifies the maximum rate of assessment that can be imposed, and requires the PRC to annually report to the Legislature the amount of fees collected in the previous year, the amount expended in performance of its duties, and the fee rates and total fees anticipated to be collected the upcoming year. The proposed bill also allows natural gas public utilities to recover the cost of the fee from their rate-payers without the necessity of a rate case.

The bill also includes language establishing the Pipeline Safety Bureau to expand its duties for master meters. The bill specifies the bureau conduct master meter outreach and education. Master meters are pipeline systems that transmit gas to the ultimate consumer such as a mobile home park or apartment complex. The outreach and education provision would concentrate on coordinating and conducting education and certification programs for pipeline safety laws as well as developing agreements with municipal governments for dual jurisdiction and inspection of master meters.

The bill contains an appropriation in FY05 for \$450 thousand and adds 2 FTE for the bureau. Furthermore, the bill makes the appropriation a one-time non-recurring appropriation, and due to

the increased duties for master meter outreach and education, the bill authorizes 2 additional FTE to handle the increased responsibility for the Pipeline Safety Bureau.

Significant Issues

- 1) The bill specifies that the fees cannot exceed certain maximums, and allows the PRC to set fees at levels below the maximum to match the anticipated revenue with the estimated program costs. There are currently only three natural gas public utilities regulated by the PRC, and, per the proposed fee structure, they would shoulder the majority of the fees imposed. The three regulated utilities provide retail and wholesale gas service to the majority of New Mexico's gas consumers.
- 2) The PRC conducts its intrastate pipeline safety programs through the Pipeline Safety Bureau of the Transportation Division, through a 60105 and a 60106 agreement with the US Department of Transportation for gas and oil pipeline facilities, respectively. Approximately, 40 to 50 percent of the pipeline safety program cost has historically been provided by the federal government on a reimbursement basis, and is expected to continue into the future.
- 3) The Legislature would continue to set appropriation levels from the "Pipeline Safety Fund" and budget the operations of the Pipeline Safety Bureau.
- 4) The LFC budget recommendation, which has been adopted in HB 2, authorizes 5 additional FTE for the expansion in the Pipeline Safety Bureau. However, the LFC recommendation does not budget a general fund appropriation for the expansion and is hinged on the passage of the "Pipeline Safety Fund and Inspection" legislation.
- 5) The Bureau has been historically under-funded and is under-staffed to perform the current inspection, investigation, and enforcement duties. As a result, federal audits have historically found severe deficiencies in the Bureau's record keeping, accident investigation follow-up, enforcement, and inspection frequency. New inspection and investigation requirements have also been enacted by federal regulations and the recent modification to New Mexico's underground facility damage prevention laws have caused the situation to become even more critical.
- 6) A recent pipeline accident on an interstate pipeline (under the jurisdiction of the federal government) in the Carlsbad area caused several deaths. More frequent inspections could have possibly avoided such a devastating occurrence, and the incident has highlighted the need for the state to assume inspection responsibilities for all pipelines in New Mexico. Adequately performing the intrastate pipeline inspection function is a necessary step in that direction.
- 7) Passage of the bill will enable the Bureau to improve its compliance with federal and state requirements.
- 8) The projected total impact of the fees imposed will be less than \$1 per year per New Mexico gas consumer. However, the cost of a single major pipeline explosion would likely exceed the annual budget of this Fund.

FISCAL IMPLICATIONS

The bill provides an expansion appropriation in the amount of \$450 thousand for FY05 from the state general fund. The HB 2 adopted appropriation (LFC recommendation) for the Pipeline Safety Bureau funds base operations and authorizes an expansion of 5 FTE inspectors. However, the LFC recommendation does not fund the expansion and is hinged on the ability of the Pipeline Safety Bureau to raise fees for its base operations and expansion.

Consequently, it is anticipated that the annual pipeline inspection fees provided for in the bill on regulated utilities will be sufficient to fully fund the state's portion of the cost of performing the PRC's duties in subsequent years. In FY06 and beyond, the fees raised from pipeline inspection is expected to pay for both the Bureau's expansion costs plus the base operations cost. The savings to the general fund from supplanting base operation costs is \$322.7 thousand annually, as well as an estimated \$450 in expansion costs annually for a total of \$772.7. Consequently, the net gain to the general fund will be the cost of base operations, or \$322.7 thousand in FY06 and beyond.

Continuing Appropriations

The bill creates a new fund and provides for continuing appropriation. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

Passage of the bill would result in improved relations with the federal Office of Pipeline Safety, as well as more efficient functioning of the one-call notification system for the prevention of excavation damage to underground utilities.

The PRC would have to set up procedures for assessing the fees and administering this Fund. However, this could probably be handled with current staffing levels.

OTHER SUBSTANTIVE ISSUES

Currently, the Pipeline Safety Bureau in New Mexico has a total of 6 FTE. According to the PRC, neighboring states have higher staffing levels. For example, Texas has a total of 55 FTE for their Pipeline Safety Bureau, Arizona has a total of 17 FTE, Louisiana has a total of 16 FTE, and Oklahoma has a total of 12 FTE. With passage of the bill and expansion authorization in HB 2 for the Pipeline Safety Bureau, the staffing level will be 11 FTE- closer to other regional peers.

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