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FISCAL IMPACT REPORT

SPONSOR Martinez DATE TYPED 3/17/05 HB 393/aHENRC

SHORT TITLE Citizen's Utility Review Act SB

ANALYST Rosen

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$720.0			Recurring	Citizens' Utility Review Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	(\$720.0)	(\$720.0)	Recurring	General Fund
	\$720.0	\$720.0	Recurring	Citizen Utility Review Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From

Attorney General's Office (AGO)
 Public Regulation Commission (PRC)
 AARP New Mexico (AARP)

No Responses Received From

Governor's Office (GO)

SUMMARY

Synopsis of HENRC Amendment

House Energy and Natural Resources Committee amendment to House Bill 393 directs the new

Citizens' Utility Review Board to work in conjunction with the Attorney General and also details that the new Board and its funding shall not in any way diminish the role, responsibilities and funding of the Attorney General to represent consumers and small businesses in utility matters.

Synopsis of Original Bill

House Bill 393 enacts the Citizens' Utility Review Act, creates a Citizens' Utility Review Board of five members appointed by the governor to represent the interests of residential and small business ratepayers as parties in utility matters before PRC, provides for employment of a consumer counsel, other staff and creation of web site for consumer education on utility matters, directs the board to report to AGO annually, creates a new, non-reverting Citizens Utility Review Fund and appropriates 6 percent of PRC's inspection and carrier fees for the purpose of carrying out the provisions of the new Act.

Significant Issues

According to AGO, this bill may be duplicative of functions already carried out by AGO. However, if the new board is to complement AGO and PRC staff efforts then AGO indicates it can assist in representing consumer interests. AGO believes this may help to provide more balance in utility matters before PRC, offsetting the considerably greater resources of utility companies. If this new board is intended to replace the AGO in representing consumers in utility cases then AGO approves creation of the board.

FISCAL IMPLICATIONS

The appropriation of 6 percent of PRC's inspection and carrier fees contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund.

Continuing Appropriations

This bill creates a new fund, the Citizens' Utility Review Fund, and provides for continuing appropriations. 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.

PRC collects "Inspection and Supervision Fees" and "Carrier and Utility Fees" from utilities and telecommunications providers, respectively, totaling about \$12 million per year, with all collections deposited directly into the general fund. This bill will reduce that amount by 6 percent annually to fund the operations of the board and its employees.

ADMINISTRATIVE IMPLICATIONS

The consumer counsel hired by the board shall employ two attorneys, one paralegal, one secretary and one clerk. As part of its duties to represent the interests of ratepayers before the courts and the PRC, the board's staff shall conduct studies relevant to rates and tariffs and administer energy efficiency programs involving the interests of residential and small business utility consumers.

TECHNICAL ISSUES

PRC indicates the fees, referenced on page 5, line 14, appear to be the “Inspection and Supervision Fees” and “Carrier and Utility Fees” currently collected by PRC and the bill’s language should be changed accordingly.

PRC indicates the “utility” reference on page 2, line 7 should be modified to include “and telecommunications” after “utility” to clarify the purpose of the board and eliminate any possible confusion.

PRC notes the bill mandates very specific staffing requirements for the board and such rigid statutory requirements may hinder the effective operation of the board over time.

OTHER SUBSTANTIVE ISSUES

AARP indicates PRC staff is insufficiently funded to represent the public interests of individual ratepayers and small business to the degree which is fair and reasonable. Furthermore, limited oversight by AGO staff is similarly limited on providing the representation consumers require in rate cases while large utilities have the deep pockets to hire highly paid attorneys, economists and advisors. According to AARP, the current oversight systems and processes in place are inadequate to fairly represent consumer ratepayers in the large number of technical utility issues raised each year in the state.

AARP reports its 2004 survey revealed two thirds of its members support creation of a civilian utility review board even if it means a small surcharge on their monthly utility bill. AARP notes utilities in New Mexico generate over \$2.2 billion in annual gross revenue from ratepayers. As such, their financial impact on citizens and business within the state ranks as significant as any industry in the State. AARP indicates families spend a greater share of their income on utility costs than on other necessities such as health care or property taxes.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

AGO will continue to be a representative of residential and small business consumers in utility cases before the PRC.

JR/sb:lg