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FISCAL IMPACT REPORT

ORIGINAL DATE 2/1/08

SPONSOR Foley LAST UPDATED _____ HB 613

SHORT TITLE Refuse Container Cleaning & Sanitizing SB _____

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$25.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 566, House Bill 531, and House Memorial 40

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Bill 613 appropriates \$25.0 thousand from the general fund to the Environment Department to clean, deodorize and sanitize commercial and residential refuse containers to assist municipal and county governments in complying with 2008 federal regulations.

FISCAL IMPLICATIONS

The appropriation of \$25 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY09 shall revert to the general fund.

As currently worded, at the very least the bill implies additional operating costs to the Department to administer and oversee the program, although the impact would appear to be minimal. However, the department does not currently have the resources to implement the program of actually cleaning, deodorizing and sanitizing commercial and residential refuse containers. The department would most likely contract for these services using the appropriation, although the department suggests that a more efficient way of fulfilling the bill's intention may be to distribute the appropriation to the various municipalities for their administration.

SIGNIFICANT ISSUES

NMED points out that the HB 613 does not specify which federal regulations are driving the appropriation request. However, the department provides the following background information:

The federal Clean Water Act requires storm-water management at solid waste facilities under industrial storm-water permit requirements. Additionally, several communities within New Mexico are required to obtain coverage under new small municipal storm-water regulations (Small MS4 Storm-water Program) recently issued by the U.S. Environmental Protection Agency (EPA). The Small MS4 Storm-water Program requires control of illicit discharges, which could include uncontained washout water from commercial and residential refuse containers.

The federal Small MS4 Storm-water Program requires permit coverage for MS4 operators, which operate storm sewer systems located within all or parts of the following urbanized areas:

Albuquerque – Albuquerque, Bernalillo, Carnuel, Corrales, Isleta Village Proper, Los Ranchos de Albuquerque, North Valley, Rio Rancho, Santa Ana Pueblo, South Valley, Bernalillo County, Sandoval County;

Las Cruces – Dona Ana, Las Cruces, Mesilla, University Park, Dona Ana County;

Farmington – Aztec, Farmington, Flora Vista, Kirtland, San Juan County;

Santa Fe – Agua Fria, La Cienega, Santa Fe, Tesuque, Santa Fe County; and

El Paso, Texas – Anthony, Santa Teresa, Sunland Park, unincorporated areas in Dona Ana County.

In addition, EPA has proposed to regulate the following three municipalities with populations between 10,000 – 50,000 located outside of an urbanized area: Clovis, Las Vegas, and Roswell.

This program, if established to aid compliance with the Small MS4 Storm-water Program, would be ongoing.

PERFORMANCE IMPLICATIONS

Unfunded EPA mandates continue to require funding from the state in order to comply with new standards.

ADMINISTRATIVE IMPLICATIONS

HB 613 implies that the Environment Department would be cleaning and sanitizing refuse containers. However, the department states it would more likely distribute the HB 613 appropriation to fund local governments to undertake these activities. The department suggests the amendment below to clarify the administrative implementation of the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 566 that would appropriate \$20 thousand general fund to Cibola County for compliance with Federal Clean Water Regulations.

Relates to House Bill 531, which is a duplicate appropriation request of House Bill 566.

Relates to House Memorial 40, which requests the Legislative Council direct the appropriate interim legislative committee assess the effect of the EPA’s new clean water standards on New Mexico’s capital expenditures.

OTHER SUBSTANTIVE ISSUES

NMED notes that regardless of federal requirements, under state law any water or chemicals used in the cleaning of refuse containers must be controlled to limit environmental impacts.

ALTERNATIVES

One option would be to clarify the particular federal regulation the appropriation is addressing and appropriate the needed funding either directly to the individual local governments or to the Local Government Division of the Department of Finance and Administration for that department to distribute to the municipalities.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Local governments would have to seek an alternate source of funding for this initiative.

AMENDMENTS

Line 20 and 21 - delete ‘to clean, deodorize and sanitize commercial and residential refuse containers’

Line 21 – insert after ‘municipal and county governments’, ‘to clean, deodorize and sanitize commercial and residential refuse containers’

POSSIBLE QUESTIONS

1. Many of these containers are most likely privately owned. How can the program be implemented without violating the anti-donation clause or violating ownership of private property?
2. How will the Department of Environment fairly allocate the appropriation across the urban areas?

MA/bb