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FISCAL IMPACT REPORT

ORIGINAL DATE 09/14/11
LAST UPDATED 09/15/11 **HB** 20

SPONSOR Gentry

SHORT TITLE Restrict Use or Sale of Fireworks **SB** _____

ANALYST Chabot/Lucero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	Minimal (see discussion)	Minimal (see discussion)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Conflicts with SB 28

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

Public Regulation Commission (PRC)

State Fire Marshall

SUMMARY

Synopsis of Bill

House Bill 20 adds subsection 7 to NMSA 1976 Section 12-10-4B authorizing the governor to proclaim a state of emergency that temporarily bans or restricts the sale or use, or both the sale and use of, fireworks, except display fireworks in an area where the national fire danger rating system deems as high, very high or extreme.

A new section is added to the Fireworks Licensing and Safety Act (NMSA 1976 Chapter 60, Article 2C) authorizing the governor to proclaim a state of emergency that bans or restricts the sale and use of fireworks except fireworks displays. The proclamation will explain restrictions and the geographic content. The governor shall consult with Indian nations before issuing a proclamation affecting tribal lands. Any proclamation may not be less restrictive of any municipality or county imposed restrictions. The definition of fireworks is changed to delete permissible and display fireworks and novelties.

In Section 4 of the Act, extreme or severe drought conditions are changed to the adjective ratings of the federal fire danger rating system: high, very high or extreme. This is a change from using

drought indices published by the National Weather Bureau. After a public hearing, a municipality shall issue a proclamation of restrictions if the governing body finds that fire danger is high, very high or extreme. Language of specific types of fireworks in this section is deleted and left to be determined by the governing body. Any proclamation restricting fireworks sales or use must be issued no less than 20 days before any holiday for which fireworks may be sold. The municipality proclamation shall be effective for 30 days and may be modified or rescinded within those 30 days. Succeeding proclamations may be made. Similar provisions are included for counties to impose restrictions within unincorporated areas.

Currently counties and municipalities may ban firework public displays and shows. This bill would eliminate that authority.

The bill has an emergency clause.

FISCAL IMPLICATIONS

Any ban on fireworks sales may reduce gross receipts revenue to the state, counties and municipalities. No state agency has been able to provide annual fireworks sales information but TNT Fireworks estimates fireworks sales in New Mexico to be approximately \$14 to \$15 million annually. This generates approximately \$750 thousand in gross receipts revenue to the state general fund. Additional distributions are made to counties and municipalities depending on their gross receipts rate.

According to the State Fire Marshall fireworks licenses are issued for one year and wholesalers may buy fewer licenses if they know or suspect bans or restrictions may be imposed. Any licenses purchased are not refundable. Fees for licenses range from \$100 for a retail permit to \$2,000 for a distributor permit.

The State Fire Marshall states the enforcement activities of the State Fire Marshall may be reduced upon declarations of bans on the sale and use of fireworks. However, additional expenses for enforcing the ban may result for law enforcement agencies.

The state and local governments may see reduced gross receipts tax revenues as a result of fireworks bans imposed. The impact is difficult to assess and would vary year to year based upon drought conditions. Since the money used to by fireworks is discretionary, it would probably be used to purchase other products in which the gross receipts tax would still be collected.

An aspect that is difficult to quantify is if fireworks are banned in an area of the state, how many individuals would drive to an area not imposing a ban or to tribal entities to purchase fireworks.

SIGNIFICANT ISSUES

According to the State Fire Marshall, the bill grants the authority to the governor to impose fireworks bans in an area where the adjective rating is high, very high, or extreme which is a new authority. The Governor can impose a ban more restrictive than one declared by local government. However, the bill does not address whether a county or municipality can impose a ban more restrictive than the governor's declaration.

According to EMNRD, “the national fire danger rating system is established locally for each public land unit in New Mexico. The index utilizes data provided that are based on fuel types (i.e. grass, brush, slash, or timber), fuel moisture content, weather (i.e. precipitation, relative humidity, temperature, cloud cover, etc.) station elevation and other factors.”

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According to EMNRD, this bill will resolve possible local government conflicts where one jurisdiction, such as the county, issues a ban but a municipality within the county or a neighboring county does not. The governor will have the ability to implement any restrictions consistently in the area. EMNRD further states the Forestry Division currently has the responsibility to limit or ban the use of fireworks on non-municipal, non-federal lands by bans on open flames.

ADMINISTRATIVE IMPLICATIONS

The State Fire Marshall would have to develop policies and procedures for recommending any fireworks ban to the governor. These would need to include consultation procedures with tribal authorities if a ban includes tribal lands.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The governor would not be able to issue fireworks bans and the issue would remain with local governments. Local governments could still ban fireworks displays.

POSSIBLE QUESTIONS

1. This bill would eliminate the ability of local governments to ban fireworks displays. Was this intended?

GAC/amm:svb