

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/13  
 SPONSOR Wirth LAST UPDATED 02/04/13 HB \_\_\_\_\_  
 SHORT TITLE Dental Amalgam Waste Act SB 99/aSCONC  
 ANALYST Weber

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

|              | FY13 | FY14   | FY15   | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected           |
|--------------|------|--------|--------|-------------------|---------------------------|-------------------------|
| <b>Total</b> |      | \$60.0 | \$60.0 | \$120.0           | Recurring                 | Dental Health Care Fund |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
 Department of Health (DOH)

### SUMMARY

#### Synopsis of SCONC Amendment

1. On page 3, line 9, after the semicolon, insert "or".
2. On page 3, lines 10 and 11, strike Subsection G in its entirety.
3. Reletter the succeeding subsection accordingly.

The essential change is to eliminate the phrase “a dentist who will no longer operate a dental office after December 31, 2013”

This was apparently done since the equipment does not need to be in place before Dec 31, 2014.

#### Synopsis of Original Bill

Senate Bill 99 requires that by December 31, 2014, a dental office install an appropriately sized amalgam separator system which can be demonstrated to be properly installed, operating, and maintained in accordance with an amalgam separator manufacturer's recommendations. The New Mexico Board of Dental Health Care shall consider noncompliance with the Dental Amalgam Waste Reduction Act as unprofessional conduct subject to the penalties and discipline of the board pursuant to the Uniform Licensing Act and the Dental Health Care Act.

The following dental related professions are not subject to the provisions of the bill. A. a dental office that is not engaged in amalgam placement, removal or modification; B. an orthodontist; C. a periodontist; D. an oral maxillofacial surgeon; E. an oral maxillofacial radiologist; F. an oral pathologist; G. a dentist who will no longer operate a dental office after December 31, 2013; or H. a portable dental office without a fixed connection for wastewater discharge.

A dental office shall report the model and size of its amalgam separator system within ninety days of installation to its local publicly owned water treatment facility and the New Mexico Board of Dental Health Care. A dental office shall report its compliance and for every consecutive three-year period following the installation of its amalgam separator.

The New Mexico Board of Dental Health Care shall initiate disciplinary proceedings for willful and persistent noncompliance with the provisions of the Dental Amalgam Waste Reduction Act.

The Board powers and responsibilities are extended to include enforcement of this Act.

### **FISCAL IMPLICATIONS**

RLD estimates The New Mexico Board of Dental Health Care would need an additional 1 FTE for the supplementary services being conducted at an estimated cost of \$57.6 thousand for personal services and benefits. The board will also have to increase other cost by \$1.5 to support the FTE.

Annual revenues for the board average \$513.0 over the past 3 years and the FY13 appropriation for expenditures was \$417.0. At these levels the \$60.0 estimate for increased expenditures is available.

### **SIGNIFICANT ISSUES**

RLD notes that the bill adds several significant responsibilities to the New Mexico Board of Dental Health Care. Specifically, monitoring amalgam remover installation, operation and recycling efforts by dental offices, which would likely result in finding shortcomings that would require training and potentially disciplinary action.

The Board has authority to conduct investigations; however, the board does not have statutory authority to conduct inspections.

DOH reports on some of the dangers of amalgam and the resulting importance of proper handling:

SB99 is consistent with the findings of the Mercury Exposure Reduction Task Force and the Dental Mercury Exposure Reports prepared as a result of memorials established by the 2006 Legislature. The conclusions of the Dental Workgroup for House Memorial 13 are consistent with the Mercury Reduction Plan Task Force for House Memorial 5. This includes the request of a statutory change requiring that all dental facilities in New Mexico that are engaged in amalgam placement, removal, or modification be equipped with amalgam separators to assure that little or no solid mercury drains into municipal wastewater or septic systems.

Dental waste enters the environment when new fillings are put in teeth or when fillings are removed and amalgam material is flushed into the waste water streams through chair-side

drains. When the amalgam fillings are removed and discharged into municipal wastewater or septic systems, this wastewater contains mercury which subsequently enters the environment. A 2003 study funded by the American Dental Association estimated that 50 percent of mercury entering publicly owned wastewater treatment facilities is contributed from dental offices (<http://water.epa.gov/scitech/wastetech/guide/dental/>). Dentists can reduce this pollution by using an amalgam separator to collect the mercury for recycling prior to wastes entering sewers and surface waters.

Dental amalgam fillings contain 40 to 50 percent mercury. Since mercury is toxic at very low levels, it is prudent to minimize exposures to mercury from all sources. Additionally, some people are particularly vulnerable to mercury toxicity and even small amounts can cause allergic reactions and other adverse health effects. Too much mercury damages the brain, nerves, kidneys, and has other adverse effects. Developing fetus and infant brains are most at risk to the effects of mercury.

Once mercury enters our surface waters, it can accumulate in fish. New Mexico currently has issued Fish Consumption Advisories in many of our lakes due to mercury in the fish.

Local publicly owned water treatment facilities would need to be made aware that they would receive reports from dental offices regarding the model and size of the installed amalgam separator systems.

## **ALTERNATIVES**

RLD indicates a possible alternative is to authorize local water districts to oversee implementation and compliance rather than connecting professional dental license to amalgam removal responsibilities. Covered dental facilities could self report on their annual renewal as to having an amalgam removal system in place. This would eliminate the requirement for inspections and inspectors and the possibility of shutting down a business.

MW/svb:bm