

FIFTY-FIFTH LEGISLATURE
FIRST SESSION, 2021

SB 8/a

February 3, 2021

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

SENATE BILL 8

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, between lines 17 and 18, insert the following new section:

"SECTION 1. Section 74-2-4 NMSA 1978 (being Laws 1967, Chapter 277, Section 4, as amended) is amended to read:

"74-2-4. LOCAL AUTHORITY.--

A. A county or municipality meeting the qualifications set forth in Paragraph (1) or (2) of Subsection J of Section 74-2-2 NMSA 1978 may assume jurisdiction as a local authority by adopting an ordinance providing for the local administration and enforcement of the Air Quality Control Act. The ordinance shall:

(1) create a local board to perform, within the boundaries of the local authority, those functions delegated to the environmental improvement board under the Air Quality Control Act, except any functions reserved exclusively for the environmental improvement board;

(2) create a local agency to administer and enforce the provisions of the Air Quality Control Act within the boundaries of the local authority that shall, within the boundaries of the local authority, perform all of the duties required of the department and exert all of the powers granted to the department, except for those duties and powers reserved exclusively for the department; and

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(3) provide for the appointment of a director who shall perform for the local authority the same duties as required of the secretary under the Air Quality Control Act, except the duties and powers reserved exclusively for the secretary.

B. At least a majority of the members of a local board shall be individuals who represent the public interest and do not derive any significant portion of their income from persons subject to or who appear before the local board on issues related to the federal act or the Air Quality Control Act.

C. Prior to adopting any ordinance regulating air pollution, public hearings and consultations shall be held as directed by the local authority adopting the ordinance. The provisions of any ordinance shall be consistent with the substantive provisions of the Air Quality Control Act and shall provide for standards and regulations not lower than those required by regulations adopted by the environmental improvement board.

D. Notwithstanding the provisions of Subsection A of this section, the environmental improvement board and the secretary shall retain jurisdiction and control for the administration and enforcement of the Air Quality Control Act as determined in that act with respect to any act or failure to act, governmental or proprietary, of any local authority that causes or contributes to air pollution, including proceeding against a local authority as provided in Section 74-2-12 NMSA 1978. "Failure to act", as used in this section, includes failure to act against any person violating the applicable ordinance or regulation adopted pursuant thereto.

E. Any local authority that is located within a transportation-related pollutant nonattainment area or maintenance area may provide for a vehicle emission inspection and maintenance program for vehicles registered at an address within the jurisdiction of the local authority and under twenty-six thousand pounds gross vehicle weight powered by ~~[a spark-ignited]~~ an internal combustion engine, which program shall be ~~[no more]~~ at least as

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stringent [~~than~~] as that required under the federal act or under federal air quality standards. Any two or more local authorities may adopt identical rules and regulations necessary to implement the vehicle emission inspection and maintenance program, including examining the alternatives of public or private operation of the program.

F. Any local authority that has implemented a vehicle emission inspection and maintenance program may extend the enforcement of that program by entering into joint powers agreements with any municipality or county within the designated airshed or with the department.

G. No tax shall be imposed to fund any vehicle emission inspection and maintenance program until the local authority has submitted the question of imposition of a tax to the registered voters of the local authority and those registered voters have approved the imposition of the tax.

H. A local authority having a vehicle emission inspection and maintenance program shall conduct the vehicle emission inspection and maintenance program through a decentralized privately owned and operated system unless air quality emissions result in automatic implementation of another type of program under the terms of a contingency plan required and approved by the United States environmental protection agency. The local authority shall set the emission inspection fee by ordinance.

I. A local authority having a vehicle emission inspection and maintenance program is authorized to adopt rules, regulations and guidelines governing the establishment of private vehicle emission inspection and maintenance stations. No private vehicle emission inspection and maintenance station shall test vehicles unless the station possesses a valid permit issued by the local agency. Permit fees shall be determined by ordinance of the local authority and shall not exceed two hundred dollars (\$200) per year per station. Additionally, a local authority may charge a permit

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fee of up to thirty-five dollars (\$35.00) per year for each vehicle emissions mechanic and for each vehicle emissions inspector. The imposition of permit fees does not require a vote of the registered voters of the local authority."".

2. Renumber the succeeding sections accordingly.

3. On page 2, line 25, strike "a" and insert in lieu thereof "the primary".

4. On page 3, line 1, after "ozone", insert "promulgated under the federal Clean Air Act".

5. On page 5, line 13, strike "consistent with" and insert in lieu thereof "at least as stringent as".,

and thence referred to the **FINANCE COMMITTEE**.

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Respectfully submitted,

Joseph Cervantes, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 3 Against

Yes: 6

No: Baca, Moores, Pirtle

Excused: None

Absent: None

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