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FISCAL IMPACT REPORT

SPONSOR Castellano/Dixon/Armstrong **LAST UPDATED** 3/14/2023
ORIGINAL DATE 2/20/2023
BILL House Bill
SHORT TITLE Local Gov't & Refrigerant Use Bans **NUMBER** 379/aHGEIC/aSCONC
ANALYST Gray

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From
Regulation and Licensing Department (RLD)

No Response Received
New Mexico Counties
Municipal League

SUMMARY

Synopsis of SCONC Amendment of House Bill 379

The Senate Conservation Committee amendments to House Bill 379 provides a sunset provision of 2033 for the new statute. Otherwise, the amendments clarify language and build on amendments of the House Government, Elections and Indian Affairs Committee.

The sole substantive change of the SCONC amendment is the addition of a delayed repeal section—commonly known as a sunset provision. This means that after 2033 the language enacted by HB379 would be repealed. The bill also strikes HGEIC amendments, but the language change is effectively the same and removes a multiple negation.

The HGEIC provided that a local government entity “shall not adopt a building code to prohibit” refrigerants allowed by the U.S. EPA. The SCONC amendment provides that a local government entity “shall allow” refrigerants allowed by the U.S. EPA. The amendment also rephrases the bill’s title to change the language from “not prohibit” to “allow”.

Synopsis of HGEIC Amendment of House Bill 379

The House Government, Elections and Indian Affairs Committee amendments to House Bill 379 clarifies that municipalities, counties, or other governmental entities are restricted from prohibiting allowable refrigerants in the building code. The amendment narrows the scope of the legislation. The original version prohibited those entities from taking *any actions* to prohibit or *limit* the use of allowable refrigerants.

Synopsis of Original House Bill 379

House Bill 379 disallows all municipalities, counties, or other governmental entities from prohibiting the use of a refrigerant designated as an acceptable alternative of substitute for class 1 or class 2 substances by the U.S. Environmental Protection Agency.

Class 1 or class 2 substances are ozone-depleting substances including halons, chlorofluorocarbons (CFCs), methyl chloroform, carbon tetrachloride, and methyl bromide (class 1) and hydrochlorofluorocarbons (HCFCs) (class 2). The EPA generates a list of acceptable and unacceptable substitutes for ozone-depleting substances by industry.

HB379 also disallows all municipalities, counties or other governmental entities from prohibiting the installation or listing of equipment that are acceptable substitutes for ozone-depleting substances and meets national recognized safety and listing standards.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

There are no estimated fiscal impacts.

SIGNIFICANT ISSUES

The transition away from ozone-depleting refrigerants has led to drastic changes in the refrigerant industry to reduce the industry's climate impact. EPA-approved alternative lower refrigerants' global warming potential but have varying degrees of flammability and toxicity. The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) provide both a flammability and toxicity rating for refrigerants. Class A refrigerants have lower toxicity and Class B refrigerants have higher toxicity, while flammability is measured by 1 (low), 2L, 2, or 3 (high). ASHRAE further defines systems as high probability, where leakage could enter an occupied space, and low probability, where leakage cannot.

Analysis from the Regulation and Licensing Department (RLD) notes that the 2024 National Mechanical Code anticipates the allowance of A2L refrigerants in high probability systems if it meets toxicity and flammability requirements. The analysis notes it is unclear what refrigerants “would be regulated and permitted” under SB379.