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FISCAL IMPACT REPORT

SPONSOR Pope LAST UPDATED _____
ORIGINAL DATE 2/22/2023
BILL _____
SHORT TITLE Energy Project Notice to Military Bases BILL NUMBER Senate Bill 413
ANALYST Dick-Peddie

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

Office of Military Base Planning (OMBP)

Energy, Minerals and Natural Resources Department (EMNRD)

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Senate Bill 413

Senate Bill 413 creates a new law governing wind and solar projects that require the submission of Federal Aviation Administration form 7460-1 to the federal Military Aviation and Installation Assurance Siting Clearinghouse. Senate Bill 413 requires owners of such projects to notify the Military Base Planning Commission that it has submitted form 7460-1 within 10 days of submission and to notify the Military Base Planning Commission again within 10 days of receiving the final approval or finding of the Clearinghouse. Project owners who fail to comply must remove equipment at their expense. If the project owner fails to remove the equipment after 30 days of non-compliance, SB413 would empower “the state” to remove the property and to recover all costs incurred, including legal fees against the owner. The state would not be liable for any damage to the project equipment. Senate Bill 413 would apply to projects that commence after January 1, 2024.

FISCAL IMPLICATIONS

There is no fiscal impact to the state as the legislation requires project owners to initiate all reporting. The Office of Military Base Planning does not anticipate additional operating costs

associated with the legislation, however, LFC notes that the agency only has 1 FTE (the director) who would be charged with reviewing these notices and tracking compliance. If there were multiple major projects in a year, OMBP may need to employ the assistance of the Economic Development Department or another entity to review notices.

SIGNIFICANT ISSUES

The Energy, Minerals and Natural Resources Department (EMNRD) provides the following context on Federal Aviation Administration regulations and the Department of Defense in New Mexico:

Since 2011 (see Senate Joint Memorial 8 of 2011), the state of New Mexico has committed to supporting the missions of its U.S. Department of Defense (DoD) constituencies with respect to renewable energy development.

[Federal Aviation Administration form 7460-1](#) is required for projects that may impact the functioning of airports or runways, including those owned and managed by the DoD. The form solicits project location coordinates (to determine the precise distance from site location to the potentially impacted airport or base), elevation data, and other project specifications. Wind and solar developers with relevant projects are already required to complete the Military Aviation and Installation Assurance Siting Clearinghouse (“Clearinghouse”) review process prior to construction and the DoD is always an active participant in federal National Environmental Policy Act (“NEPA”) reviews, which are very common for New Mexico based renewable energy projects as those facilities almost always have a federal nexus (e.g., cross federal lands, etc.). Renewable developers are well aware of that process and whether their proposed site is on or near “[geographic areas of concern](#)” which can be miles-wide, 3-dimensional buffers around military bases, particularly those with air strips and mission-related flight training paths. In practice, the process has resulted in successful projects when developers are aware of the requirements and have the time and budget to wait out a Clearinghouse determination. However,, New Mexico’s DoD installations, which may have specific concerns relating to a project, are generally left outside of the process, which is centralized – unless a developer approaches the installation command directly.

OMBP states that the legislation would allow both the potential project owner and the impacted base to communicate early, avoiding potential costs and delays in rearranging or re-planning projects. However, EMNRD notes that the legislation could act as an “additional layer of bureaucracy between renewable project developers and the arm of state government that is intended to advocate for the state’s military bases.” EMNRD also states that while the legislation might encourage communication between developers and New Mexico’s Department of Defense installations, placing the entire burden on developers could discourage renewable energy projects in the state. EMNRD also notes that the requirement is duplicative of the existing centralized federal Clearinghouse process.

ALTERNATIVES

EMNRD suggests OMBP engage in outreach to project owners rather than place new requirements on developers:

As some developers may be unaware of the Clearinghouse process, it might make more sense for the Military Base Planning Commission, with the resources of the Economic Development Department, to engage in a more robust outreach and education campaign instead of applying an additional administrative burden. The Commission might also develop a strategy with the Clearinghouse to ensure that New Mexico's DoD installations are more involved in the review of projects within the existing federal process and authority.

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