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FISCAL IMPACT REPORT

SPONSOR: Leavell DATE TYPED: 02/19/03 HB _____

SHORT TITLE: Air Emissions Reduction Investment Costs SB 592

ANALYST: Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

- *Report of the Legislative Finance Committee to the Forty-sixth Legislature, First Session, January 2003 for Fiscal Year 2003 – 2004, pp. 591 – 592.*
- *Emerging Issues in Air Quality and Regional Haze State Implementation Plans, Staff Brief for LFC Hearing, June 2002.*

Public Regulation Commission
Department of Environment

SUMMARY

Synopsis of Bill

Senate Bill 592 amends provisions of the Public Utility Act by allowing electric utilities to recover from its ratepayers the costs of voluntarily installing air emission reduction technologies at its generating plant through a special cost recovery rate rider, if approved by the Public Regulation Commission. The bill requires the Department of Environment to certify that the emissions reduction project creates significant environmental benefit with minimal cost but maximum flexibility for the proposed air emissions reduction.

Significant Issues

The PRC and NMED has cited concerns with the provisions of this bill. The primary concern is that allowing a rate-rider increase mechanism could allow the utility to pass on the cost of the improvement and keep the efficiencies generated from them. The PRC as a matter of policy does

not allow for rate riders because not all costs or benefits are considered in such a cost-benefit analysis. Rather, the analysis focuses on the improvement as a standalone item.

NMED highlights several concerns with the language proposed in SB 592, which are reprinted below.

Environmental Benefit. This bill is potentially beneficial to the environment, but requires amendments in order to ensure that it is beneficial. The bill, in its present form, does not ensure that there will be actual or overall benefits to the environment. Without amendments, the bill can result in a financial benefit to electric utilities without resulting in an actual or overall benefit to the environment.

The bill requires that the emissions reductions project demonstrate that it will have “projected emissions reductions.” However, the bill should ensure that while one pollutant is decreased, other pollutants are not increased or other resources used. Therefore, the bill should include a prohibition that there will not be an increase in emissions of other air pollutants or an increase in discharges of contaminants to surface or ground water. For example, the reduction of emissions of volatile organic compounds (VOC) can result in an increase in nitrous oxides (NO_x) emissions. An amendment is suggested below to address this issue.

The purpose of the bill is to allow utilities to pass on costs to consumers for emissions reductions projects that are “voluntary,” that is, not otherwise required by law. Expertise in state and federal emissions requirements, however, is required to evaluate whether a project is truly voluntary or whether it is required by law. The bill, as written, could allow recovery for costs of projects that are not voluntary. An amendment is suggested below to address this issue.

SB 592 requires the Environment Department to certify that the project creates “significant environmental benefits, including reduction of the level of air emissions . . . below current federal or state requirements . . . “All facilities must currently meet federal and state air emissions requirements. Under the proposed language, the *actual emissions* from the plant could increase significantly as a result of new construction and still be less than the “current federal or state requirements” or less than the *allowable emissions* in the facility’s air permit. Due to the results of bottlenecking in plant processes and the inability of older equipment to perform optimally, it is not uncommon for an electric utility plant to emit less in practice than allowed under federal and state requirements or under its air permit. If *actual emissions* are not decreased, there is no actual benefit to the environment. An amendment is suggested below to address this issue.

The bill requires a certification by the Environment Department that the project, among other things, “minimizes the costs and maximizes the flexibility in relation to the proposed reduction in air emissions.” (Page 7, line 14.) The standard set forth by this language is not sufficiently clear. Additionally, the Air Quality Bureau of the Environment Department does not have the technical expertise to make such an assessment. This language should be deleted.

Beneficiaries of Environmental Benefit and Rate Payers. SB 592 requires that the utility supply power to New Mexico retail customers. A number of New Mexicans purchase power from utilities in surrounding states, including Texas and Colorado. The principal environmental benefit would be derived from out of state ratepayers, not ratepayers in New Mexico.

However, under the current provisions of the bill, New Mexico ratepayers could pay the full cost of the projects. An amendment to fairly allocate costs is suggested.

NMED is not reviewing this bill for effects on ratepayers other than as stated above. The potential negative effects on ratepayers can be best addressed by other agencies.

FISCAL IMPLICATIONS

Senate Bill 592 does not contain an appropriation.

TECHNICAL ISSUES

NMED suggested amendments:

Page 7, lines 11-13; "(a) creates significant environmental benefits, which must include including reduction in of the level of actual air emissions at the generating plant, no increase in the level of actual or allowable air emissions, and no increase in the discharge of contaminants to surface or ground water; below current federal or state requirements and"

Page 7, lines 14-16: "(b) ~~minimizes the costs and maximizes the flexibility in relation to the proposed reduction in air emissions~~ the air emissions reduction project is voluntary and not otherwise required by federal or state statute, regulation or permit."

Page 6, line 12: "full and timely recovery of the fairly allocated costs".

POSSIBLE QUESTIONS

1. What types of costs associated with the "voluntary installation" are recoverable through the rate-rider proposed by this bill? Specifically, does the amendment allow recovery of overhead costs, including engineering studies and a return on the utility's investment in the additional plant?
2. Does clause "below current federal and state requirements", identified in the bill, refer to the requirements of a facility operating permit or to state or national ambient air quality standards?

MFV/prr