F I S C A L I M P A C T R E P O R T

		ORIGINAL DATE	1/27/06		
SPONSOR	Sanchez, M	**LAST UPDATED**	2/14/06	**HB**	
SHORT TITLE	NM RENEWABLE ENERGY TRANSMISSION AUTHORITY			**SB**	317/aSJC/aSFC/aSFL#1/aSFL#2/aSFL#3
				ANALYST	Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	**FY07**	**FY08**		
		(100.0)	Recurring	General Fund
		(33.0)	Recurring	Local Governments

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 111.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
State Treasurer's Office (STO)
Attorney General (AGO)
Energy Minerals and Natural Resources Department (EMNRD)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of SLF Amendments #1, #2 and #3

Senate Floor amendment #1 to Senate Bill 317 will add the president of the Navajo Nation or the president's designee as an additional ex-officio nonvoting member of the New Mexico renewable energy transmission oversight committee, which is created in Senate Bill 317.

Senate Floor amendment #2 amends the definition of "eligible facilities" so that at least 30 percent of a facility's transmitted or stored energy will need to come from renewable sources within one year after the facility begins to transmit or store electricity, and so that to remain eligible the amount of energy from renewable sources will not be allowed to fall below 30 percent.

Senate Floor amendment #3 will require the authority to receive legislative authority to enter projects, issue bonds or borrow money.

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 317 replaces the original bill's gross receipts tax deduction for selling equipment and services to the authority with two separate gross receipts tax deductions— one for equipment and one for services.

The amendment also inserts language to make the PRC more involved with the authority. The authority's ability to exercise eminent domain when acquiring property or rights of way for projects will be subject to PRC determination that such action does not materially diminish electric service reliability in the state. In addition, the legislative oversight committee created in the bill will have to report its findings to the PRC in addition to the legislature and governor.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 317 strikes Section 2, which describes legislative findings and purposes for the bill. The amendment also specifies that public utilities may recover capital costs of projects undertaken pursuant to the Renewable Energy Transmission Authority Act from its retail customers if the project has received a certificate of public convenience and necessity from the PRC, while municipal utilities may recover capital costs of projects if the project is approved by the municipality's governing body.

Synopsis of Original Bill

Senate Bill 317 creates a quasi-governmental agency, the New Mexico Renewable Energy Transmission Authority. The authority will be able to hire an executive director and other employees; enter agreements and contracts; finance or plan, acquire, maintain and operate electric transmission and storage facilities which, within one year after beginning operation, will generate at least 30 percent of their electricity from renewable sources; and issue renewable energy transmission bonds as necessary to finance projects.

The renewable energy transmission bonds authorized in Senate Bill 317 will be repayable from the newly-created renewable energy transmission bonding fund. Proceeds from the bonds will be appropriated to the authority to finance or acquire electric transmission and storage facilities that will generate at least 30 percent of electricity from renewable sources, and money in the fund will be pledged for bond debt service. On the last day of January 31 and July 30 of each year, the authority will transfer the balance of the bonding fund, except for the amount needed for the next 12 months of debt service, to the newly-created renewable energy transmission authority operational fund. The authority is also authorized to refund existing bonds when such action is deemed beneficial. Bonds will be exempt from New Mexico taxes.

The authority will be required to submit a report of its activities to the governor and legislature no later than December 1 of each year.

The bill also creates the New Mexico renewable energy transmission oversight committee, a joint interim legislative committee. Members of the committee will be chosen by the legislative council, and the legislative council will staff the committee.

The bill creates a new gross receipts tax deduction for receipts from selling equipment or providing services to the renewable energy transmission authority or an agent or lessee of the authority for planning, construction, repair, maintenance or operation of a facility acquired by the authority.

The authority will have five voting members: three governor appointees approved by the senate, one member to be appointed by the speaker of the house, and one member to be appointed by the senate president pro tempore. One of the governor's appointees will need expertise in major electrical transmission financing. The other four members will need special knowledge of the public utility industry or renewable energy development. The secretary of EMNRD will also serve as a non-voting member. Authority members will receive per diem and mileage reimbursements.

The effective date of these provisions is July 1, 2006.

FISCAL IMPLICATIONS

According to TRD, New Mexico currently has over 400 megawatts of wind-energy capacity. Wind capacity is expected to grow in the future due renewable energy portfolio mandates that utilities must generate at least 10 percent of their portfolio from renewable sources by 2011. TRD assumes that wind capacity served by the renewable energy transmission authority will increase by 20 megawatts per year. Assuming that wind facilities will cost about $150 thousand per megawatt to construct, total expenditures eligible for the new gross receipts tax deduction will probably total about $3 million per year after a few years of authority operations. These operations are not expected to generate any deductions until FY08.

In addition, the bonds that the authority will issue will be tax exempt, which will reduce personal and corporate income tax revenue. TRD estimates that income tax revenue will decrease by less than $100 thousand per year once authority operations are established.

According to EMNRD, funding to implement is act will be necessary in the General Appropriation Act.

SIGNIFICANT ISSUES

An electricity generation or storage facility must be estimated to generate or store 30 percent of its energy from renewable sources within one year of the beginning of operations. Renewable energy is defined as electricity generated from low or zero-emissions technology with long-term production potential, solar, wind, hydropower, geothermal resources, non-fossil fueled fuel cells, or biomass.

According to EMNRD, lack of transmission capacity is the biggest obstacle to development of New Mexico's wind resources. EMNRD believes the renewable energy transmission authority will help develop New Mexico's electricity transmission infrastructure and energy storage technologies. The purpose of the authority will be to promote development of renewable energy facilities by aiding the addition of facilities to transmit electricity to the market.

EMNRD states that the bill will offer economic development opportunities in rural areas of New Mexico.

ADMINISTRATIVE IMPLICATIONS

TRD reports that this bill will have a small administrative impact. TRD will troubleshoot systems, revise forms and instructions, educate taxpayers, prepare seminar materials, and train personnel.

EMNRD has already requested additional staff resources to cover its responsibilities under this act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 317 is a duplicate of House Bill 111.

TECHNICAL ISSUES

TRD suggests consideration of a sunset provision, which would give the legislature the opportunity to revisit the provisions of this bill once the renewable energy industry has had more time to develop. A sunset should be a minimum of five years into the future.

The AGO is concerned about several instances where the bill is written more broadly than necessary. For example, Section 5(B)(5) gives the authority the power to establish corridors for the transmission of electricity in the state and Section 5(B)(6) authorizes the authority to investigate, plan, prioritize and negotiate with entities within and outside the state for the establishment of interstate transmission corridors. These powers granted to the authority may encroach on powers of the PRC pursuant to Sections 62-9-1 and 62-9-3 NMSA 1978.

AGO also notes that Sections 5(B)(15) and 5(E) authorize the authority to establish rates for use of transmission facilities and provide that the authority will not be subject to PRC jurisdiction. This leaves questions about the status of authority facilities if they are leased to public utilities that are subject to PRC jurisdiction.

PRC notes that the bill may enable the authority to acquire a rural utility's transmission line and lease it to another utility. This may create challenges for the PRC.

The terms "low-emission" and "long-term production potential" in the definition of renewable energy are not clear and may cause future litigation.

The amount of bonds the authority may issue are not limited in any way.

The authority will have eminent domain authority in New Mexico but will not have this advantage if it builds transmission lines in other states.

OTHER SUBSTANTIVE ISSUES

According to EMNRD, a few weeks after a similar bill failed to pass the senate in 2005, Wyoming announced a new transmission line that must carry electricity twice as far and through difficult terrain. Transmission markets are growing, competition is increasing. However, PRC notes that due to its investment in uneconomical projects, California has declared that it is not interested in purchasing energy from this Wyoming project because uneconomical projects have made the price offered by Wyoming too high.

TRD notes that construction is one of the largest pieces of the gross receipts tax base, representing 13 percent of the base. State officials have traditionally been reluctant to enact provisions that exempt construction activities from taxation.

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