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FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/11

SPONSOR Doyle LAST UPDATED 02/18/11 HB 167/aHCPAC

SHORT TITLE Fire Prevention Ordinances & Code Changes SB _____

ANALYST Haug

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)
 Regulation and Licensing Department (RLD)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee Amendment removes Section 1 and Section 2 in their entirety.

Synopsis of Original Bill

House Bill 167 Section 1 would amend NMSA 1978, §5-15-1 et seq. (entitled Tax Increment for Development) to add a new section prohibiting a municipality or county from adopting an ordinance requiring fire sprinklers to be installed in detached one and two family dwellings and multiple single-family dwellings under three stories in height. It also would give the authority for enforcing construction-related sections of the fire prevention code to the municipal or county building official on all construction requiring a building permit.

Section 2 of HB 167 would amend NMSA 1978, §59A-52-15 (the State Fire Marshal section of the Insurance Code), to create rules for use of existing commercial buildings. The bill would delete the definition of “public occupancies” and substitute language specifying that existing commercial buildings do not include detached one and two family dwellings and multiple single-

family dwellings under three stories in height. It adds a provision giving the authority for enforcing construction-related sections of the fire prevention code to the building official having jurisdiction on construction requiring a building permit.

Section 3 of HB 167 would amend NMSA 1978, §60-13-6, Construction Industries Licensing Act, (CILA) to prohibit the Construction Industries Commission from adopting a rule that would require fire suppression systems in detached one and two family dwellings and multiple single-family dwellings under three stories in height.

FISCAL IMPLICATIONS

House Bill 167 contains no appropriation and there is no fiscal impact to the state. To the extent that local governments would undertake separate code adoption effort in this area, there could be some impact to local governments.

SIGNIFICANT ISSUES

The RLD stated with respect to the duplicate Senate Bill 201:

The current building codes adopted by the Construction Industries Licensing Commission, pending publication, for the 2009 New Mexico Residential Building Code do not adopt the provision of the 2009 International Residential Code (the national publication on which the New Mexico codes are based) requiring residential fire suppression systems. The Construction Industries Division (CID) used a collaborative process to review the national codes, which included various representatives from the construction industries, including residential home builders. It resulted in the deletion of the residential fire suppression systems requirement of the national code. This is the appropriate process for vetting any code requirement because it is based on technical expertise and gives full consideration to economic impact.

The bill conflicts with current provisions of the CILA. NMSA 1978, §60-13-44 requires that the bureau chiefs of the CID recommend to the Commission minimum standards for construction in the areas of their respective expertise (i.e. electrical, mechanical/plumbing and general contracting) and that these standards substantially embody the applicable provisions of a code that is promulgated by a nationally recognized association and developed through an open, balanced consensus process. The bill would expressly prohibit the use of this process with respect to residential fire suppression systems.

The bill would subvert the purpose of the current statute. It attempts to use the building codes to permanently bar a particular construction system – a system specifically designed for the safety of life and property. The building codes are authorized by the CILA for the express purpose of protecting life and property – that purpose should not be undermined by a universal ban on any product or construction method that is designed for safety.

The PRC notes that according to the State Fire Marshall:

State and local fire codes would no longer be applicable or enforceable for new

construction of commercial buildings. The only method in which state or local officials could guarantee the safety of such buildings would be to constantly adopt new codes so that they would be covered as “existing” structures. Such a methodology would shift the cost burden of safety from the builders to the building owners after the fact.

State and local fire codes would no longer be applicable to new or existing one and two family dwellings.

State and local governments could not adopt fire sprinkler requirements for residential dwellings or large structures that are not classified as commercial or residential. (Example – private warehouse for storage of an automobile collection.)

State and local building officials would be given complete authority over state and local fire code officials, including reversals of fire code official’s interpretations, decisions and orders.

The State Fire Marshall also asserts that because fire codes would no longer be applicable to new construction, such buildings would not have a government approval process for safety. Insurance carriers may have to do such evaluations of building safety on their own thus raising the cost of insurance premiums for new buildings.

DUPLICATION

House Bill 167 and Senate Bill 207 are duplicates.

GH/mew