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FISCAL IMPACT REPORT

SPONSOR Bandy ORIGINAL DATE 02/17/11
LAST UPDATED _____ HB 484
SHORT TITLE Board and Commission Coordination SB _____
ANALYST Graeser

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.0	\$0.0	\$0.0	Recurring	All Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Health Policy Commission (HPC)

New Mexico Environment Department (NMED)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 484 amends the Executive Reorganization Act to require coordination of state agencies, boards and commissions with the political subdivisions of the state regarding the development of any rule, plan, policy or action.

FISCAL IMPLICATIONS

Although this required coordination and cooperation may lengthen the time frames involved in developing plans, policies, programs and rules, there will be minimal fiscal impacts. NMED indicates that rulemaking could require greater resources and staff time, but did not quantify the impact. It is likely that after a period of adjustment, time frames for planning and rulemaking would be accelerated to allow for adequate consultation while still meeting deadlines.

SIGNIFICANT ISSUES

HB 484 requires each cabinet Secretary to:

- Keep apprised of the state's political subdivisions' plans, policies and programs and assure that, when practicable and consistent with state law, there is consistency with their

plans when developing rules, plans, policies or management actions, providing the state’s political subdivisions have provided their plans and policies to the agencies;

- Provide early notification to the state’s political subdivisions of the development of any rule, plan, policy or action to those political subdivisions that have requested notification;
- Provide the opportunity for meaningful input by the state’s political subdivisions to the development of any state agency, board or commission rule, plan, policy or action that will or may affect the political subdivisions, the natural resources within their jurisdictions or their residents;
- Make all practical efforts, in good faith, to resolve conflicts at the lowest level possible between state agencies, boards or commissions and the state’s political subdivisions’ policies and plans and, where practicable and consistent with state law, reach consistency with those plans and policies through coordination; and
- Develop procedures for coordination with and provide for meaningful input by the state’s political subdivisions regarding the merits of each rule, plan, action or proposal developed by the state’s agencies, boards or commissions.

PERFORMANCE IMPLICATIONS

HPC notes that this bill may delay promulgation of some state agency, board or commission rules.

NMED expresses virtually the same note of caution: “HB 484 would require an additional layer of review between the agency, board or commission and any and all potentially affected counties, cities, and local governments with regard to the adoption of rules or amendments to rules, which may lengthen the time that it takes for a state agency board or commission to adopt or amend a rule.”

ADMINISTRATIVE IMPLICATIONS

NMED notes, “...implementation of HB 484 would require additional staff time and resources to implement. A number of state boards and commissions are administratively attached to NMED, such as the Water Quality Control Commission and the Environmental Improvement Board, and additional NMED resources would be required to ensure that those administrative bodies implement HB 484.”

TECHNICAL ISSUES

NMED notes that two definitions could strengthen the bill and ensure that the agencies clearly understand the requirements imposed by the provisions of the bill:

1. “State’s political subdivisions” should be defined to make it clear which entities are subject to the bill. For example, would soil and water conservation districts be within the ambit of EMNRD, OSE, NMED and the Water Trustee, but not within the ambit of Department of Health? Would each agency determine which subdivisions to include in its planning and rulemaking activities?
2. HB 424 requires coordination between State agencies and state political subdivisions on “rules, plans, policies, actions, and proposals” of the State agencies. “Rule” is a term that is defined in the State Rules Act, and is understood. “Plans, policies, actions, and proposals” are broad terms, and subject to varying interpretations. These terms could be defined in order that State Agencies understand their responsibilities under this bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

NMED advises, "...currently, NMED is required to provide notice to state political subdivisions of proposed rules that could affect those subdivisions. NMED also strives to work with and coordinate with all political subdivisions on issues of overlapping concern. If HB 424 were not passed, NMED would continue to give notice of proposed rules that would affect state political subdivisions and would continue to coordinate with political subdivisions of the state on all issues of mutual interest."

LG/bym