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FISCAL IMPACT REPORT

SPONSOR Chasey ORIGINAL DATE 03/01/11
LAST UPDATED _____ HB 544
SHORT TITLE Limit Public Utility Rate Increases SB _____
ANALYST Haug

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$77.8	\$77.8	\$155.6	Recurring	Various

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 543

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 544 proposes to amend 62-8-7 NMSA 1978 by introducing the requirement in rate proceedings of an economic impact study presented by the utility to quantify any adverse impact of the proposed rates on New Mexico's economy, employment and business activity. A similar study must be submitted for rates increased more than 3% since 2008. Finally, the bill requires that any rate increases totaling more than 1% that have gone into effect without a hearing are subject to a similar determination regarding adverse economic effects.

FISCAL IMPLICATIONS

House Bill 544 contains no appropriation. The PRC reports at least one full time economist would be required by the NMPRC to evaluate and respond to the impact studies required by the bill. The cost of one fulltime economist is reflected in the table above as an Economist A at midpoint with 30% benefit costs.

SIGNIFICANT ISSUES

According to the PRC:

This bill represents a significant change from current regulatory standards and raises issues under the federal and the New Mexico Constitutions. Under long-standing precedent, the Commission must set rates at a level that would give utilities a reasonable opportunity to earn a reasonable return on their investment in utility property. A rate less than that level could be deemed to be “confiscatory”; i.e., the taking of property without just compensation. Because the Commission is required to abide by that standard under current law, if the bill were read to require the Commission to set rates at a level below that level, the bill could be viewed by the courts as unconstitutional.

In addition, the PUA already requires that a utility prove that any proposed rate increase is “fair, just and reasonable.” Complex systems and procedures are in place to balance the interests of consumers and investors, with the public interest in system reliability. This bill would introduce a new set of values and procedures with no clear determination of which should prevail. Furthermore it appears to be somewhat difficult to assess the long term economic impacts of proposed rate increases.

NMPRC Commissioners, Staff and interested parties would have to develop new mechanisms and proceedings to address these new considerations together with the above-discussed Constitutional issues.

Significant time and resources would be required to prepare, analyze and evaluate these new utility filings. If contested, Staff might have to conduct its own study, which would require still further resources, which are not presently available. New rules would have to be enacted and initial decisions could be subject to appeal, creating additional burdens for Commission Counsel.

DUPLICATION

House Bill 544 duplicates Senate Bill 543.

TECHNICAL ISSUES

The PRC notes the bill introduces extremely large concepts with minimal definitional clarity. Regulatory principles such as subsidization or allocation among rate classes are treated in a somewhat conclusory fashion.

GH/mew