

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/11

SPONSOR McSorley LAST UPDATED _____ HB _____

SHORT TITLE Limit Public Utility Rate Increases SB 543

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 HB 544

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 543 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

Senate Bill 543 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

Senate Bill 543 duplicates House Bill 544.

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/bym