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## FISCAL IMPACT REPORT

**SPONSOR**      Bash/Akhil/Roybal      **ORIGINAL DATE**    02/27/19  
                     Caballaro                      **LAST UPDATED**      \_\_\_\_\_      **HB**    630

**SHORT TITLE**    Denial of Certain Environmental Permits      **SB**    \_\_\_\_\_

**ANALYST**    Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0.0	\$80.0	\$80.0	\$160.0	Recurring	Various

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Environment Department (NMED)

New Mexico Attorney General (NMAG)

### SUMMARY

#### Synopsis of Bill

House Bill 630 seeks to amend the Air Quality Control Act by adding subsections to Section 74-2-7 NMSA 1978 to give NMED or a local agency the authority to deny a permit application or revoke an issued permit based on misrepresented or withheld information provided in the application, criminal convictions within 10 years related to environment or trade crimes, constructing or operating a facility without a required permit, or prior revocation of an environmental permit. The bill also requires NMED to develop and provide a disclosure form to people seeking a permit, unless they are a state or federal public entity or registered corporation.

### FISCAL IMPLICATIONS

NMED’s Air Quality Bureau estimates HB 630 would necessitate staff time to develop a disclosure statement and then the subsequent review of the disclosure statement. The fiscal impact table above reflects 1 FTE (\$80 thousand total compensation) that may be necessary to implement HB 630.

## **SIGNIFICANT ISSUES**

According to NMAG, HB630 would add “bad actor” provisions to the permitting section of the Air Quality Control Act. Furthermore, the bill would allow NMED or a local agency to consider aggravating and mitigating factors when deciding whether to deny or revoke a permit.

Exemptions to the disclosure requirement apply to the federal governments, states and political subdivisions, and corporations, provided the corporation is registered with the federal Securities and Exchange Commission and submits its most recent annual form 10-K or an equivalent report.

## **PERFORMANCE IMPLICATIONS**

NMAG noted the provisions HB630 would add to the Air Quality Control Act are similar to existing law in other parts of the Environmental Improvement Act. See Solid Waste Act at 74-9-21 (Permit Applicant Disclosure), 74-9-24.B (Solid waste facility permit; issuance and denial; grounds; notification of decision; permit recording requirement) Hazardous Waste Act at 74-4-4.7, (Permit applicant disclosure), 74-4-4.2 (Permits; issuance; denial; modification; suspension; revocation), and Water Quality Act at 74-6-5.1 (Disclosure statements).

## **ADMINISTRATIVE IMPLICATIONS**

The NMED commented several permit regulations would need to be revised, including 20.2.70, 20.2.72, 20.2.74, and 20.2.79 NMAC. These revisions are subject to approval by the federal Environmental Protection Agency, as several are part of New Mexico’s state implementation plan.

## **TECHNICAL ISSUES**

NMAG commented provisions of Section 74-2-7 typically reference “the department or local agency” and are thus applicable to both. This approach is followed in some but not all the proposed additions - two proposed subsections reference only “the department.” See proposed 74-2-7 (R) (disclosure statements to be on form developed by, and submitted to, the Department), 74-2-7 (S)(3)(b) (SEC form 10-K’s to be submitted to the Department). The clause “or local agency” should probably be added to these subsections for consistency. Otherwise a local agency (i.e., Albuquerque Environmental Health Division) would be required to use forms developed by NMED, and would not necessarily receive 10-K forms from permittees in its jurisdiction.

NMED commented subsection R does not include a list of information required to be submitted in a disclosure statement to determine past criminal history, including felonies, convictions, or crimes related to price fixing, fraud, bribery, or restraint of trade. NMED also commented the provisions of HB630 could cite permit revocations rather than permit denials.

## **ALTERNATIVES**

NMED noted standards for denying or revoking an air quality permit could include documented failure to follow: applicable statutes, regulations, published procedures and application submittal

requirements. In addition, failure to correct the application submittal within a deadline (e.g., two weeks) provided in written notification to the NMED would result in a permit application denial.

AHO/gb