

- Direct the EIB to establish a fee schedule based on costs associated with NMED's regulatory oversight of permitted solid waste facilities;
- Eliminate the current permit fee limit of \$10 thousand; and
- Provide an automatic mechanism for annual adjustment of fees based on inflation.

In addition, HB108 creates the nonreverting solid waste permit fund in the state treasury. Money in the fund is appropriated to the department to be used for expenses related to the operation and management of the solid waste program. All fees collected pursuant to the statute amended by this bill shall be deposited into the solid waste permit fund.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

HB108 prompts a rulemaking process to revise the fee structure for solid waste permits. The revised fee structure will be established based on costs associated with administering solid waste permits and regulating solid waste facilities. NMED's reported annual costs for these activities, and thus the amount of revenue the agency will aim to generate from solid waste permit fees, total approximately \$500 thousand. Solid waste permit fees currently generate about \$44 thousand in revenue per year. Therefore, NMED will petition the EIB to adopt a fee schedule that raises, at most, an additional \$456 thousand annually. Because HB108 mandates an annual inflation adjustment to the fee schedule, the bill will result in a revenue increase of at least \$2,000 for NMED's solid waste program, regardless of the fee changes adopted by the EIB.

HB108 will not have any operating budget impact and will not reduce NMED's reliance on the general fund. Rather, the existing general fund appropriation would become available for solid waste program activities such as facility inspections, responses to illegal dumping complaints, training and technical assistance for local government staff at permitted and registered facilities, and development of an illegal dumping prevention program to aid local government efforts.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

Currently, a onetime permit fee of \$10 thousand (established in 1990) is collected from waste processing facilities at the time of issue. This fee is significantly lower than permitting fees in other states, and is insufficient to cover the costs associated with staff servicing the permit over its 20-year lifecycle.

PERFORMANCE IMPLICATIONS

The NMED states that the increased funding under the revised permit fee structure will allow the agency to improve its oversight of the state's solid waste facilities. One of NMED's key performance measures is the percentage of permitted facilities in compliance with Solid Waste Act requirements, and this performance will likely be improved with additional funding.

ADMINISTRATIVE IMPLICATIONS

Enactment of HB108 will prompt NMED to conduct stakeholder outreach to develop a new fee structure and an appropriate timeline for implementation, potentially using a phased approach to allow the regulated community time to plan and budget for any proposed increase. NMED will then need to petition the EIB to revise regulations with an updated fee structure. NMED states it will have to invest significant resources to develop and draft the revised fee structure, conduct outreach, and go through the public rulemaking hearing process to adopt fee increases.

CW/sb/al