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FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/13
 SPONSOR HAGC LAST UPDATED 03/13/13 HB 652/HAGCCS
 SHORT TITLE Public Peace Health Safety Welfare (Farm Nuisance) SB _____
 ANALYST Hartzler-Toon

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY13 | FY14 | | |
| | NFI | N/A | N/A |

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 194, No Agriculture as a Nuisance

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)
 Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

The House Agriculture and Water Resources Committee's substitute for House Bill 652 (HB 652) resembles Senate Bill 194 (SB 194), amending the Right to Farm Act, Section 47-9-3 NMSA 1978, which relates to agriculture operations or facilities that can be deemed a nuisance.

Current law states that an agricultural operation or facility is not or shall not become a private or public nuisance if the operation or facility was not a nuisance when the operation began and it has been in operation for over a year. Section 48-9-3A NMSA 1978. House Bill 652 provides an exemption to the current law for an agricultural operation or facility that has a substantial adverse effect on public health and safety. The bill also establishes a presumption that an agricultural operation or facility that is in compliance with federal, state and local laws are presumed not to adversely affect public health and safety.

FISCAL IMPLICATIONS

Neither the New Mexico Department of Agriculture (NMDA) or the Attorney General's Office

(AGO) identified any operational expenses associated with HB 652. The bill does not contain an appropriation.

SIGNIFICANT ISSUES

The NMDA states:

As urban areas expand into rural agricultural regions that are agriculturally productive, such agricultural operations continue to face new and additional scrutiny due to requirements of production as they broach into an urban/rural interface.

Across the United States, nuisance law suits are being filed based on the encroachment of urban presence adjacent to agriculture activities. Agriculture in New Mexico in 2011 was a \$4.1 billion industry serving as a vital component to New Mexico's economy. The consequence of nuisance or negligence lawsuits provides the potential to impair the state's industry and the state's economy and provides a negative impact on the ability for the industry to operate.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 652 is similar to SB 194, also defining when agriculture may be deemed a nuisance.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to the NMDA, "Agriculture will continue to face pressure from urban sprawl including loss of agricultural land and potential nuisance lawsuits resulting in potentially significant economic losses, including foregone income due to lawsuits."

POSSIBLE QUESTIONS

What is the frequency of lawsuits filed pursuant to the Right to Farm Act?

How many of these suits are based on nuisance?

What are the costs to state agencies and individual constituents due to such lawsuits? Have the costs increased or decreased over time?

What impact does establishing a presumptive standard for nuisance have on such suits?

THT/blm