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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/16
LAST UPDATED _____

SPONSOR Nuñez **HB** 256

SHORT TITLE Distributed Energy Generation System Sale **SB** _____

ANALYST Amacher

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
	N/A		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 Office of the Attorney General (AGO)
 Public Regulations Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 256 enacts a new section of the Trade Practices and Regulations law (Chapter 57 NMSA 1978) to provide for the lease or sale of a distributed energy generation system; in addition to provisions for disclosures in agreements and an exception.

HB 256 defines “distributed energy generation system” as a device or system that is used to generate or store electricity and that has a capacity, singly or in connection with other similar devices or systems, greater than one kilowatt that is primarily for on-site consumption. HB256 specifically denotes that a distributed energy generation system does not include an electric generator intended for occasional use.

A “seller or marketer”, as defined in HB 256, is an individual or a company acting through its officers, employees or agents that market, sells or solicits the sale, financing or lease of distributed energy generation systems or negotiates or enters into agreements for the sale, financing or lease of distributed energy generation systems.

HB 256 outlines 13 new requirements for the distributed energy generation system agreements which govern the financing, sale or lease of the system between the seller or marketer and the buyer or lessee. This bill further requires the responsible party to disclose the information on the person(s) who will assume maintenance or warranty of the system prior to the transfer of the system.

Section D of HB 256 requires estimates on the buyer's or lessee's utility rates for the period after the installation of the system within the marketing materials. The buyer or lessee shall also be provided an estimate of the utility charges for the same period with any potential utility rate charges from at least a five percent decrease to at least a five percent increase from the current rates.

The exception outlined in HB 256 applies to anyone engaged in a transaction involving the sale or transfer of real property that the distributed energy generation system is or will be attached.

SIGNIFICANT ISSUES

The Office of the Attorney General (AGO) notes that Sections B (6) and B (7) may be problematic because they may require the seller or marketer to provide tax advice to the buyer or lessee. Section B(6) requires identification by the seller or marketer of all current tax incentives, rebates, or any other incentives for which the buyer may be eligible including the means by which these incentives are obtained. Section B (7) requires the identification of tax obligations the buyer or lessee may be subject to as a result of buying, financing or leasing the distributed energy system.

TECHNICAL ISSUES

The AGO indicates two sections of the bill should be considered for amendments:

- Page 5, line 18, strike “if” and after “agreement” insert “shall” and strike “s” off the word “contains”;
- Page 6, line 3, insert a new section 13 and then renumber accordingly, the new section is to read as “set forth the estimated number of months in which the buyer or lessee can expect to recover the total amount of investment. This recovery period shall be calculated by dividing the total purchase price or total cost to the buyer or lessee under the agreement for the distributed energy generation system over the life of the agreement by estimated change in future monthly utility charges.”