

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 and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR McSorley ORIGINAL DATE 2/10/17  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE State Fair Light & Noise Ordinance Compliance SB 203

ANALYST Martinez

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI	NFI	NFI

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
New Mexico State Fair

### SUMMARY

#### Synopsis of Bill

SB203 would amend the New Mexico State Fair's current legislation to require the Fair Commission to prepare, adopt, publish and enforce rules in order to comply with the city of Albuquerque's lighting and noise ordinances at all times other than during the dates when the New Mexico state fair is held.

### FISCAL IMPLICATIONS

SB203 carries no appropriation and will have no fiscal impact on the New Mexico State Fair Commission. The New Mexico State Fair is already in compliance with both ordinances in SB203.

### SIGNIFICANT ISSUES

The New Mexico State Fair confirms that the agency already addresses the issue of noise impacting surrounding neighborhoods of the state fair grounds through a number of internal requirements, such as, contract language which must be signed off by entertainers that specifies noise limits consistent with the Albuquerque city ordinance decibel restrictions. Though this legislation would exempt the annual event as it relates to compliance, the fair is compliant with the city ordinance year round.

Additionally, the State Fair has recently invested approximately \$10,000 for the purchase of broadband absorption panels at Villa Hispana in order to further reduce sound levels.

The New Mexico State Fair also confirms that the current lighting systems that the State Fair utilizes are also compliant with the city's lighting ordinance.

### **ADMINISTRATIVE IMPLICATIONS**

SB203 requires staff monitoring of various events and stages, however the Fair already employs mechanisms to do so, including the use of noise measurement devices.

### **TECHNICAL ISSUES**

Technical corrections stated by the New Mexico State Fair include the following;

Potential legal issues: First, Article XX, Sec. 22 of the New Mexico Constitution provides exclusive authority over state lands with respect to pollution control.

“The protection of the state's beautiful and healthful environment is hereby declared to be of fundamental importance to the public interest, health, safety and the general welfare. The legislature shall provide for control of pollution and control of despoilment of the air, water and other natural resources of this state, consistent with the use and development of these resources for the maximum benefit of the people. Id. (1971.)

Second, and consistent with this constitutional mandate, it is the intention of the legislature to give the environmental improvement board statewide, paramount authority to enforce regulations and standards in the various areas listed and that all other entities of government and political subdivisions thereof must conform. N.M. Mun. League, Inc. v. N.M. Envtl. Improvement Bd., 88 N.M. 201, 539 P.2d 221 (Ct. App.), cert. denied, 88 N.M. 318, 540 P.2d 248 (1975).

The Environmental Improvement Act (§74-1-7 NMSA (2000)), grants the department, in part, the following duties:

The department is responsible for environmental management and consumer protection programs. In that respect, the department shall maintain, develop and enforce rules and standards in the following areas:

- (1) Food protection;
- (6) Noise control;
- (7) Nuisance abatement;

As a matter of statutory interpretation, the specific grant to the NMED in the Environmental Improvement Act trumps the city's claim to general authority under the Sewage Facilities Act. Interstate Nuclear Services. Corp. v. Santa Fe, 179 F Supp.2d 1253 (D.N.M. 2000).

Third, a municipality has no inherent right to exercise police power. Its powers are derived solely from the state. *Town of Mesilla v. Mesilla Design Center & Book Store*, 71 N.M. 124, 376 P.2d 183; *Munro v. City of Albuquerque*, 48 N.M. 306, 150 P.2d 733.

For example, the state has granted express authority to a municipality and such grant can be found at §7-8-5NMSA (2002) “The provisions of the Sport Shooting Range Act shall not prohibit a local government from regulating the location and construction of sport shooting ranges after July 1, 2002.”*Id.*

Finally, a city has no inherent right to exercise control over state land. See *City of Santa Fe v. Gamble-Skogmo, Inc.*, 73 N.M. 410, 413, 389 P.2d 13, 15 (1964); *Town of Mesilla v. Mesilla Design Center & Book Store*, 71 N.M. 124, 376 P.2d 183 (1962).

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The New Mexico State Fair will continue to establish internal noise controls in consideration of the residences nearby as well as continue to voluntarily comply with Albuquerque lighting ordinances year round.

JM/al/sb