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FISCAL IMPACT REPORT

SPONSOR Stefanics LAST UPDATED _____
ORIGINAL DATE 2/21/23
SHORT TITLE Gov't Unit Utility Savings Contracts BILL NUMBER Senate Bill 420
ANALYST Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	\$210.0	\$218.4	\$228.4	Recurring	ECMD Operating Budget (EMNRD)

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

General Services Department (GSD)

SUMMARY

Synopsis of Senate Bill 420

Senate Bill 420 (SB 420) amends Section 6-23-3 NMSA 1978, also known as the Public Facilities Energy Efficiency and Water Conservation Act (PFEEWC), changing the word “may” to “shall.” The effect would be that public entities would be compelled to enter into utility savings contracts with qualified providers to reduce energy, water, or conservation-related operating costs if such a contract can be guaranteed, rather than making such contracts optional.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023 (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

Senate Bill 420 requires that all public entities enter into guaranteed utility savings contracts if such contracts result in savings or no net cost increase.

Analysis from the Energy, Minerals and Natural Resources Department (EMNRD) estimated that such a change would have a significant budget impact on its Energy Conservation and Management Division (ECMD), which has the responsibility of reviewing and certifying these

contracts. The agency also provides technical assistance to governmental entities seeking to enter into these contracts under the Public Facility Energy Efficiency and Water Conservation Act (the act). In addition, ECMD must issue two certifications for each utility performance contracting project under the act. First, the vendor must be a qualified provider that meets EMNRD experience requirements; the guaranteed energy savings must appear to be accurately estimated and reasonable.

EMNRD's analysis estimated that SB420 would at least double, if not triple, the number of guaranteed utility savings contract agreements requiring agency review. As a result of this change, EMNRD estimated it would require two additional FTEs with engineering expertise to adequately review and certify the accuracy of the guaranteed energy savings resulting from the new requirement in SB420. In addition, the agency estimated that these additional staff would cost the department \$210 thousand in FY24 and \$218.4 thousand in FY25 assuming 4 percent annual salary growth.

SIGNIFICANT ISSUES

The Public Facilities Energy Efficiency and Water Conservation Act (PFEEWC) is a funding mechanism that uses a public-private lease-purchase approach enabling government entities to reduce energy consumption and operating costs by implementing facility upgrades. The program is available to all public entities in New Mexico, including state agencies, public school districts, institutions of higher education, and local governments. Under the PFEEWC program, a public entity contracts with an established Energy Service Company (ESCO) on the State Price Agreement to perform an investment-grade energy audit of their facility. The energy cost savings identified in the audit are guaranteed to the public entity. ECMD is responsible for certifying the audit and monitoring the energy savings achieved annually.

Analysis from the Energy, Minerals and Natural Resources Department indicates that their current staffing levels would be unable to adequately support the expansion of this program to include all eligible public facilities. While the agency does not make a normative judgment about the utility of such a change, it is very clear in its explanation regarding the impact on the division's current workload.

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