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FISCAL IMPACT REPORT

SPONSOR <u>Sen. Stefanics/Rep. Garratt</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/4/25</u>
SHORT TITLE <u>Prohibit Certain Solar Covenants</u>	BILL NUMBER <u>Senate Bill 98</u>
	ANALYST <u>Gygi</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Counties and Municipalities	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	County and Municipality General Funds

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 65

Sources of Information

LFC Files

Agency Analysis Received From

Economic Development Department (EDD)
 Energy, Minerals, and Natural Resources Department (EMNRD)
 Public Regulation Commission (PRC)
 New Mexico Municipal League (NMML)
 New Mexico Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From

New Mexico Counties (NMC)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Senate Bill 98

Senate Bill 98 (SB98) amends current statute regarding local government restrictions on solar collectors (Section 3-18-32 NMSA 1978), including limitations on covenants, conditions, and restrictions that increase the cost to consumers of purchasing and installing a solar collector.

Specifically, SB98:

- Prohibits covenants that increase consumer costs by more than 10 percent or \$1,500, or that reduce the efficiency of a solar collector by more than 10 percent (after any applicable credits or incentives); and

- Adds a new section that allows a prevailing party in an enforcement action to collect reasonable attorney fees. This new section would apply to the new prohibition as well as the existing prohibition.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The New Mexico Municipal League (NMML) asserts that the fiscal impact of SB98 to municipalities is indeterminate but could include limited increases in administrative costs. Additionally, municipalities could incur costs related to the payment of attorney fees when they implement or enforce prohibited restrictions.

The Energy, Minerals and Natural Resources Department (EMNRD) states “the broad language of this bill could be interpreted as denial of permit for systems as a cost burden and lead to litigation over location of facilities.” Legal fees associated with such litigation could increase the end-cost of solar electricity.

The Economic Development Department, Public Regulation Commission (PRC), and the New Mexico Attorney General note no fiscal impact from this bill.

SIGNIFICANT ISSUES

Ideally, SB98 will result in more residential solar installations, assuming some may not be occurring due to covenants that are cost-prohibitive to consumers. PRC points out the bill would set a standard for what “cost-prohibitive” means and concludes that adding an attorney’s fee provision will likely have a deterrent effect on potential violators.

NMML states that setting the percentage increase and total dollar amount thresholds in statute infringes on local regulatory decision-making: “Such regulatory decisions should remain at the local level given the significant differences in needs and local approaches across the state regarding solar installations.”

EMNRD notes that about half of U.S. counties and municipalities have passed laws restricting residential solar installation. Some do not ban installation outright but may increase the cost of installing solar systems on properties through restrictions on siting and height. The result is that “the United States, despite enormous renewable and energy security potential, is banning solar faster than permitting it.” EMNRD also states that “faster, clearer permitting of solar will help advance the state’s goals in the Energy Transition Act and lower consumer costs.”

EMNRD points out the bill does not clarify if the “consumer” designates solely residential or rooftop-only customers. This lack of definition, along with the definition of “solar collector” in the Solar Rights Act (Sections 47-3-1 to 47-3-5 NMSA 1978) would possibly allow large, utility-scale solar developments to be sited without regard for local “convent [sic], condition or restriction.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB98 relates to Senate Bill 65 which would enact the Consumer Solar Protection Act with consumer protections for purchasers of a residential solar energy system and a private right of action for violation of these protections.

KG/sgs/SL2