

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: Heaton DATE TYPED: 2/13/01 HB 304
 SHORT TITLE: Amend Hazardous Waste Act SB _____
 ANALYST: Belmares

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			See Fiscal Implications section below.		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 205

SOURCES OF INFORMATION

Department of Environment

SUMMARY

Synopsis of Bill

House Bill 304 amends the Hazardous Waste Act (74-4-4.2 NMSA 1978) with regard to the public’s role in public hearings on hazardous waste permit hearings. House Bill 304 eliminates examination of witnesses at public hearings concerning hazardous waste permits. Additionally, House Bill 205 allows the Department of Environment to collect fees beyond what is currently allowed for in existing regulations if the agency is able to show the expected costs of processing the application exceeds the existing permit fee.

Significant Issues

The Department of Environment issues permits for operation of facilities that treat, store, or dispose of hazardous or mixed hazardous and radioactive waste under delegated federal and state authority. Under the Federal Resources Conservation and Recovery Act of 1976 (RCRA), permit issuance and permit modification are subject to public hearings in several circumstances, including if there is a “significant public interest.”

House Bill 304 -- Page 2

The Department of Environment has expressed concern regarding the language modifications contained within Senate Bill 205 possibly being construed as being less stringent than federal law and jeopardizing New Mexico's authorization to administer the hazardous waste program. Specifically, Department of Environment has expressed concerns regarding the elimination of examination of witnesses at public hearings and with changing the phrase "significant public interest" to "significant public concern" when determining the need for a public hearing.

Senate Bill 205 also replaces the term "major" with "minor" with "class three" and "class two" respectively. The Department of Environment asserts the language change from "minor" to "class two" modifications reduces the opportunity for the public and permit holder to comment and request a hearing on class one (informal class distinction and agency-initiated) modifications which may be simple administrative or technical modifications made to a permit.

FISCAL IMPLICATIONS

House Bill 304 allows the Department of Environment to collect fees beyond what is currently allowed for in existing regulations if the agency is able to show the expected costs of processing the application exceeds the existing permit fee. The Department of Environment has indicated the authority to collect supplemental fees would affect primarily exceptional facilities such as the Waste Isolation Pilot Plant. However, the Department of Environment has not provided an analytical estimate of the positive fiscal impact to the Hazardous Waster Permit fund.

ADMINISTRATIVE IMPLICATIONS

House Bill 304 will require the Department of Environment to estimate permit and permit modification processing costs should the department elect to collect from an applicant supplemental fees as allowed for in House Bill 304.

DUPLICATION

House Bill 304 duplicates Senate Bill 205.

POSSIBLE QUESTIONS

The Department of Environment has indicated House Bill 304 would allow it to collect additional fees; however, the Department of Environment has not provided an analytical estimate of the positive fiscal impact to the Hazardous Waster Permit fund.

EB/njw