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FISCAL IMPACT REPORT

SPONSOR HENRC DATE TYPED 2/22/05 HB 124/HENRCS/aHENRC

SHORT TITLE Sustainable Development Testing Site Act SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Environment Department (ED)
 Energy, Minerals & Natural Resources (EMNRD)

SUMMARY

Synopsis of HENRC Amendment

The House Energy and Natural Resources Committee amendment to HENRCS for House Bill 124 adds to the definition of sustainable development testing site that “an area cannot be in a an existing subdivision with restrictive covenants.”

Synopsis of Original Bill

Then House Energy and Natural Resources Committee Substitute for House Bill 124 enacts the Sustainable Development Testing Site Act. The purpose of this act is to allow counties, after review by appropriate state agencies, to permit specific rural areas as "sustainable development testing sites" in which concepts and inventions related to residential sustainable development, including energy, housing, water harvesting, sewage treatment, food production and bio-fuel production, can be tested to the point of failure under conditions involving actual year-round inhabitants on the site, all of whom have signed an acknowledgment that they have read a disclosure statement about the sustainable development testing site.

The bill requires a county planning commission to set a date, not less than ninety days or more than one hundred twenty days after receipt of the application, for a public hearing on a testing site application. It requires a county planning commission to broadcast on local radio an announcement that it has received such an application; this is in addition to a notice being published in a local newspaper of general circulation. The bill establishes a maximum term for any sustainable development testing site permit to be issued by a planning commission; the term is set at five years, subject to renewable for another five-year period. The bill has language authorizing inspectors from the ED or other state agencies to enter a testing site without signing an acknowledgement that the person has read a disclosure statement about the site.

The bill requires the county planning commission to render its decision in writing within two weeks after the hearing. If the planning commission decides to issue a testing site permit it must first determine that the applicant is in receipt of the appropriate permit or approval issued by the SEO and that no state or local agency, evaluating the sustainable development testing site application has determined the site or sustainable development research proposed to be conducted at the site will damage land, water or air adjacent to the site or will permanently damage the area of the site; no existing federal laws, regulations or permits or state environmental laws, regulations or permits will be violated by the proposed sustainable development research at the site; the proposed sustainable development research at the site is beneficial to sustainable development; and the site and proposed sustainable development research are otherwise beneficial to the county and to the state.

Significant Issues

This bill provides a mechanism by which a residential developer can be permitted to legally test under real-life conditions innovative concepts, ideas and technologies that may conserve finite natural resources and lessen the environmental impact of human habitation and that would be prohibited by existing laws, ordinances or rules. Such state and local laws effectively preclude or discourage such testing. The bill establishes a testing framework and process with appropriate safeguards, external oversight, and other protections, thereby advancing sustainable development in New Mexico.

This bill clarifies the roles and regulatory authorities of the Office of the State Engineer (OSE) and the ED in the permitting of a sustainable development testing site under the ct. For example, any application for such a testing site will be forwarded to the OSE for review and comment; and the OSE will be required to determine whether the applicant had received necessary water right permits or other approval. The bill also clarifies that any testing site will be subject to all applicable the ED environmental protection regulations such as those governing air and water quality.

ADMINISTRATIVE IMPLICATIONS

County officials will have to administrate the provisions of this bill as part of ongoing responsibilities.

DW/lg