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## FISCAL IMPACT REPORT

ORIGINAL DATE 3-02-07

SPONSOR HBIC LAST UPDATED \_\_\_\_\_ HB CS/481/HBICS

SHORT TITLE Dental Amalgam Waste Reduction Act SB \_\_\_\_\_

ANALYST Aubel

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

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$80.0	\$80.0	\$160.0	Recurring	See narrative

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 16 and HB 318

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Environment Department (NMED)

Department of Health (DOH)

Regulation and Licensing Department (RLD) - Boards and Commissions Division (BCD)

### SUMMARY

#### Synopsis of Bill

The House Business and Industry Committee Substitute for House Health and Government Affairs Committee Substitute for House Bill 481 aims at reducing mercury in the environment by enacting the Dental Amalgam Waste Reduction Act, which would require dental offices to install and use an amalgam separator system to remove dental amalgam before it is discharged to a wastewater stream by December 31, 2008. The bill also requires the NM Board of Dental Health Care to promulgate rules by June 30, 2008 that set forth a process for dental offices for maintaining records relating to the amalgam separator and could deny a license to practice dentistry or a renewal of such license for violations of the rules adopted by the board after the deadline for separator installation. The Act provides for various exemptions.

This bill provides a definition of “dental office” and requires reports to be submitted to the New Mexico Board of Dental Health Care in addition to the local wastewater treatment plant. This bill also clarifies that penalties and discipline for noncompliance with the Dental Amalgam Waste Reduction Act shall be pursuant to the Uniform Licensing Act and the Dental Health Care Act.

## **FISCAL IMPLICATIONS**

BCD maintains that the New Mexico Board of Dental Health Care (board) would need an additional 2 FTE for the supplementary services being conducted at an estimated cost of \$80 thousand for personal services and benefits. Because the board is sustained through other state funds, BCD estimates an increase in the dental fees of approximately \$60.00 would be required to cover the cost of the added personnel.

Section 61-5A-20 NMSA 1978 places a \$600.00 limit on dental license renewal. Currently, the cost of renewal is \$480.00.

## **SIGNIFICANT ISSUES**

Mercury is a persistent, bio-accumulative (which means it undergoes chemical magnification up the food chain) neurotoxin. DOH notes that mercury exposure is a potential health issue for New Mexicans and that even very low levels can pose a concern, particularly for pregnant women, infants, and children. The toxicity manifests in a variety of conditions including learning disabilities, tremors, muscle in-coordination, loss of memory, personality changes, deafness, and loss of vision and is also toxic to the kidneys. Many of the adverse effects of mercury are reversible, therefore minimizing or eliminating certain exposures can have a beneficial effect on the exposed individual.

Dental amalgam fillings are comprised of about 50% mercury and are a known source of mercury exposure (ATSDR Toxicological Profile for Mercury, 1999).

While the mercury content of new amalgams has generally decreased in recent years (silver is the primary metal used in dental amalgam now), the U.S. Environmental Protection Agency (EPA) has nevertheless determined that old and removed dental amalgam can be a significant source of mercury exposure to the public.

Mercury amalgam traps can reduce mercury released to the environment from approximately 800 grams per dentist per year to approximately 10 grams or less. According to the New Mexico Dental Association, dental facilities that install an amalgam separator will acquire dental amalgam capture and recovery services from their respective dental equipment supplier to ensure proper installation and disposal or recycling. Systems are available for under \$1,000, with filter cartridges running under \$300.

Exemption language is provided for dental offices that can demonstrate that they are not engaged in amalgam placement, removal, or modification; for a nonprofit organization where dental care is provided on a voluntary basis; for a portable dental office without a fixed connection.

## **PERFORMANCE IMPLICATIONS**

The bill will minimally impact the workload of NMED, which may be involved in approving the method or technology for mercury amalgam separation pursuant to Section 8. BCD notes that without adequate funding to provide initial implementation and enforcement of the Act, the board may be impacted by delayed licensing, compliance investigations, and disciplinary enforcement.

## ADMINISTRATIVE IMPLICATIONS

HB 481/HHGACS would require coordination of records with RLD and local publicly owned water treatment facilities, creating new rules, and processing board-initiated compliance actions under the Uniform Licensing Act.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB 16, which proposes a mercury reduction group of organizations to implement the findings from the Mercury Reduction Task Force formed pursuant to the 2006 House Memorial 5.

Relates to House Bill 318, which is aimed at reducing mercury emissions from power plants.

## TECHNICAL ISSUES

NMED notes that discharges of concern can flow to a local public wastewater system, a private septic system or a private system other than a septic system. Private systems should therefore be described as private on-site liquid waste systems, which is a more encompassing term.

NMED also points out that the reporting requirements in Section 5 could be clarified to specify the frequency of reporting compliance, maintenance, recycling or disposal records and to whom the reports will be sent.

Suggested amendments to incorporate these suggestions are provided below.

## OTHER SUBSTANTIVE ISSUES

The Act requires that the amalgam separator meets the latest international office of standardization (ISO) of efficiency, ISO 11143, which is 99 percent efficient. Separator models are sized according to the size of the dental facility.

This bill is the culmination of the workgroup established by HM 13 in 2006, which included representatives from DOH, Albuquerque's wastewater facility, NMED, and the New Mexico Dental Association.

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

Dental offices may not remove mercury amalgam prior to discharging its wastewater.

## AMENDMENTS

Section 2, page 2, lines 1 and 2, amend the definition of "amalgam separator" as follows: Delete the words "septic system" and replace with "on-site liquid waste system".

Section 5, page 3, line 12, amend as follows: Insert after "facility", "or if a publicly owned water treatment facility is not available, reporting shall be directly to the New Mexico Board of Dental Health Care".

Section 5, page 3, line 12, amend as follows:  
Insert after “shall”, the word “annually”.

Section 5, page 3, line 15, amend as follows:  
Insert after “years”, the words “to its local publicly owned water treatment facility or if a publicly owned water treatment facility is not available, reporting shall be directly to the New Mexico Board of Dental Health Care”.

**POSSIBLE QUESTIONS**

1. What process is required to raise the dental licensing fees? Would the timing to complete the process fit the timelines established in the bill?
2. Has legal counsel at RLD responded to the question of whether the language in the Dental Practice Act is sufficient to cover the authority specified by this Act?

MA/nt