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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/09

SPONSOR Martinez LAST UPDATED 3/17/09 HB 265/aSfI#1

SHORT TITLE No Gas Chamber For Animal Euthanasia SB _____

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI (See Below)		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation & Licensing (RLD)

Board of Veterinary Medicine (BVM)

SUMMARY

Synopsis of SFI#1 Amendment

The Senate Floor amendment #1 to HB 265 clarifies that a supervising veterinarian is not required to be on the premises of a euthanasia agency when euthanasia is performed.

The amendment also removes language requiring that a euthanasia instructor be certified.

In addition, the amendment changes the citation from the Animal Sheltering Services Act to Chapter 77, Article 1B NMSA 1978

Synopsis of Original Bill

House Bill 265 amends 77-1-12 NMSA 1978 and 77-1B-8 NMSA 1978 of the Animal Sheltering Services Act.

The bill clarifies that the authority granted each municipality and county to seize and dispose of dogs and cats running at large shall not conflict with the provisions of the Animal Sheltering Services Act.

The bill requires the rules adopted by the Animal Sheltering Services Board (ASSB) to prohibit the use of carbon monoxide gas chamber for the euthanasia of cats and dogs.

The bill also changes the term “federal drug enforcement agency” in the Controlled Substances Act to the appropriate term, “United States drug enforcement administration’s” Controlled Substances Act

FISCAL IMPLICATIONS

There are no fiscal implications for the state. There are, however fiscal implications for the local animal shelters who are not in compliance with provisions in this act. The local shelters will have to be in compliance at the end of June instead of July 1, 2010 which the ASSB proposed rules will require.

SIGNIFICANT ISSUES

Since the summer of 2008, the ASSB has been drafting proposed rules regulating the provision of euthanasia services at animal shelters. The proposed rules contain a provision banning the use of the carbon monoxide chamber for the euthanasia of cats and dogs after a one-year transition period. The proposed rules will go to public hearing in April 2009 and are expected to become effective July 1, 2009.

The Attorney General Representative to the ASSB and the Regulation and Licensing Department interpret the language in 77-1-12 NMSA 1978 to authorize municipalities and counties to create local laws for the disposal of dogs and cats. However, the Animal Sheltering Services Act grants the ASSB exclusive authority to license euthanasia providers, agencies and instructors:

However, there is concern that because the Animal Sheltering Services Act and the authority granted to municipalities and counties are vague the provision in rules adopted by the ASSB to eliminate the use of gas chambers could be challenged in court under the Home Rule Bill, N.M. Const. art. X, § 6.

Four localities, Portales, Tucumcari, Jal and Clovis currently use gas chambers. All other shelters in the state are already using lethal injection.

The Humane Society of the United States (HSUS) recommends the injection of sodium pentobarbital, prepared specifically for use as a euthanasia product, as the preferred agent for the euthanasia of companion animals. This method, when properly performed, has been found to be the most humane, safest, least stressful, and most professional choice by the HSUS, The American Humane Association, and the American Veterinary Medical Association.

ADMINISTRATIVE IMPLICATIONS

If HB 265 is passed, the ASSB will have to change its rules to eliminate the one-year transition period and begin enforcing the ban on the use of the chamber as soon as the rules are adopted, which is expected to be in July 2009.

TECHNICAL ISSUES

RLD suggested the following amendment to 3-18-3.A(3) NM 1978 to clarify that there is no conflict between the ASSB and local governments:

(3) provide by ordinance for the impounding and disposition of animals found running at large; provided, however, that the ordinance does not conflict with the provisions of the Animal Sheltering Services Act.

DW/mt:mc