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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/09

SPONSOR Steinborn LAST UPDATED HB 548

SHORT TITLE Recycling Development Act SB

ANALYST Haug/Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$1,720.0	Recurring	Recycling Infrastructure and Opportunity Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$2,200.0	\$2,200.0	Recurring	Recycling Infrastructure and Opportunity Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Environment Department (ED)
 Association of Counties (NMAC)
 Municipal League (NMML)
 Higher Education Department (HED)
 Public Education Department (PED)
 Indian Affairs Department (IAD)

SUMMARY

Synopsis of Bill

House Bill 548 would establish a recycling fee of sixty cents (\$.60) per ton on disposal of all solid waste in New Mexico. Revenue from the fee would be collected in a new Recycling Infrastructure and Opportunity Fund and distributed as follows:

- 1) 15 percent to the ED's Solid Waste Bureau (Bureau) to fund four full-time positions;
- 2) 7 percent to the Bureau for recycling outreach and education programs; and
- 3) 78 percent to be used for grants.

HB 548 appropriates the 78 percent to the department.

The bill amends the Recycling and Illegal Dumping Act by adding nine additional entities (the two new Recycling Coordinators from the Bureau and one member from each of the following: a state educational institution, public schools, recycling advocacy organizations, a land grant community, a cooperative association, a solid waste authority or district, and IAD) to the already existing 12-member Recycling and Illegal Dumping Alliance (RAID). The new alliance is charged with helping craft the rules to carry out the responsibilities prescribed in the act and making recommendations in the award of grants.

FISCAL IMPLICATIONS

According to the ED, in 2007 the state managed approximately 3.7 million tons of solid waste. Thus, at 60 cents per ton, the revenue generated from this act would approximate \$2.2 million per year. The bill earmarks a distribution of 15 percent for four staff, or \$330,000, but is silent on how the money will be appropriated. The seven percent for education and outreach programs would be approximately \$154,000 per year. Again, the bill is silent on how this funding would be appropriated. It could be assumed that for FY10 the department could use its budget authority to authorize its use and in future years these operating costs would be funded from the new fund as part of the normal budget process.

The bulk of the fund – 78 percent or \$1.7 million – is earmarked for grants to communities for landfill equipment, grants for public education, recycling fees to landfills, and grants for research. The bill appropriates this money to the department to distribute grants according to the distributions. However, the language contained in Section 5 (C) through (F) is confusing in that it refers to the total fund, not just the 78 percent. This conflicts with the original allocation of 78 percent for grants and 22 percent for other uses contained in Section 3 (D).* The distributions are noted below by striking the bill's current language and inserting new language to show probable intent in this analysis:

- ~~87 percent of the recycling infrastructure and opportunity fund~~ of the 78 percent shall be distributed in grants for the purchase of equipment to be used in recycling solid waste;
- ~~4 percent of the recycling infrastructure and opportunity fund~~ of the 78 percent shall fund public education regarding the importance of recycling and waste diversion in their local communities;
- ~~6 percent of the recycling infrastructure and opportunity fund~~ of the 78 percent shall be distributed in the form of recycling fee distributions to landfill disposal facilities to carry out provisions contained in Section 4 of the bill; and

- 3 percent ~~of the recycling infrastructure and opportunity fund~~ of the 78 percent shall be distributed to eligible persons for end-use research for innovative uses for recyclable materials.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

*See Technical Issues.

SIGNIFICANT ISSUES

The ED states:

This bill attempts to generate money for recycling by imposing a tax on solid waste. This concept has been discussed for many years as a fair and equitable way to advance recycling in the state. Our current recycling rate is 11 percent, compared to the national average of 33 percent. Landfill owners, both public and private, have not supporting this type of tax (often referred to as a tipping fee).

The \$2.2 million per year dedicated strictly to recycling would have a positive impact on reducing solid waste and recycling. More communities would establish curbside or drop-off recycling collection. Existing communities that recycle would expand their collection tonnages. New markets for recyclables would be created, thanks to higher volumes of recyclable materials. More citizens and companies would learn of the economic and environmental benefits of recycling, composting, and waste reduction.

HB 548 expands the existing Recycling and Illegal Dumping (RAID) Alliance. The current alliance helps select grants from eligible entities as defined in the Recycling and Illegal Dumping Act. Under HB 548 there are new organizations that may apply for grants under the Recycling and Infrastructure Fund. Merging grant eligibility and responsibilities of the RAID Alliance with what the requirements in HB 548 will need to be accomplished.

The NMAC comments that it acknowledges that a statewide educational campaign is essential to changing habits regarding reducing, reusing, and recycling and feels that incentives for businesses to process, produce and consume recyclables are needed to increase recycling. NMAC also recognizes that the state currently does not offer significant state grants and loan programs to support communities in developing or expanding their recycling infrastructure. NMAC is concerned about the fiscal impacts that this bill would place on the end consumer.

The PED notes that this bill expands the recycling and illegal dumping alliance to include, among others, a state educational institution and an organization representing public schools. It also includes school districts as “eligible persons” that may apply for and receive recycling infrastructure and opportunity funds. School districts could apply to develop programs to educate the public (including students) on the need for recycling and waste reduction as well as to establish recycling programs.

The IAD notes, quoting various sources, that tribes that meet the eligibility requirements are already among those entities listed that may apply for grants under RAID. In the past, tribes have received such grants by the Environment Department for recycling and illegal dumping reduction initiatives. This funding helps to support projects that help protect the health and welfare of tribal residents by preventing illegal dumping; promoting environmentally sound methods for reuse and recycling; and encouraging economic development, community development and collaboration that promotes efficient and sustainable use of resources, sustainable recycling and a cleaner and healthier environment for all New Mexicans.

ADMINISTRATIVE IMPLICATIONS

The IAD notes that the bill would require that IAD apply for grants on behalf of recycling programs located on Indian nations, tribes or pueblos or land belonging to tribes. IAD would also be required to distribute these grants. The department staffs only fifteen positions and currently does not employ a grant writer.

TECHNICAL ISSUES

The distribution of the Recycling Infrastructure and Opportunity Fund allocates 100 percent of the fund to the grants component of the program instead of 78 percent of the fund. The effect would be to provide no appropriation for the 22 percent of the fund for FTE and other program costs contemplated in the bill for the ED.

ALTERNATIVES

The IAD suggests apportioning a percentage of the Bureau's funding (15 percent) for the four positions to IAD to contract for services to assist tribal entities in the grant application process or alternately removing the IAD from the bill by:

Page 7, lines 15 through 20, strike Subsection B in its entirety.

Page 15, strike line 7 in its entirety.

Page 16, line 15, after "subdivision" strike "or the Indian affairs department".

GH:MA/mt