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FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/13

SPONSOR Anderson LAST UPDATED _____ HB 307

SHORT TITLE No Policies From UN Rio Declaration SB _____

ANALYST McCoy

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

New Mexico Department of Environment (NMED)

SUMMARY

Synopsis of Bill

House Bill 307 (HB 307) proposes to prohibit the state and political subdivisions from restricting property rights without due process by adopting principles from the United Nations Rio Declaration on Environment and Development (Rio Declaration) and from contracting with or giving any form of financial aid to the International Council For Local Environmental Initiatives (ICLEI) or affiliated organizations.

FISCAL IMPLICATIONS

No fiscal impact.

SIGNIFICANT ISSUES

The Rio Declaration is a non-binding resolution passed by the United Nations in 1992. President George H.W. Bush signed the resolution, but it is not a binding treaty. It sets forth 27 general principles for environmental protection and development. For example, principle 1 states, "Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature."

In acknowledgement that air pollutants cross state, local and international boundaries the New Mexico Air Quality Control Act (Section 74-2-5.2-B NMSA) states that the New Mexico Department of Environment (NMED) shall “advise, consult, contract with and cooperate with... interested persons or groups in regard to matters of common interest in the field of air quality control...” The NMED notes, the agency collaborates with other states, Mexico and some regional organizations to more effectively address air quality. Although HB 307 relates to specific organizations, the broad language of HB 307 may constrain the NMED’s ability to comply with the broad language of the New Mexico Air Quality Control Act. HB 307 will also require the NMED to ascertain whether an entity is “related or affiliated” with the entities identified in HB 307 prior to any advisement, consultation, contracting or cooperation with any entity, lest the entity have any kind of relationship or affiliation barred by HB 307 which, the NMED notes, could be a burdensome process.

TECHNICAL ISSUES

The Attorney General’s Office (AGO) notes the following legal issues with HB 307:

1. Taking away property rights without due process of law is already prohibited by the constitutions of both the United States and New Mexico.
2. The principles set forth by the Rio Declaration are vague and general; the prohibition against adopting such principles, in violation of due process, may be void for vagueness.
3. HB 307 does not contain within its text the 27 principles which are the subject of its prohibition; therefore, the meaning of HB 307 is not understandable without outside reference to the Rio Declaration.

ALTERNATIVES

The AGO suggested one alternative would be to introduce a house memorial disapproving of the principles of the Rio Declaration.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to the AGO, state and local governments will continue to be prohibited from taking away property rights without due process of law.

MTM/svb