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FISCAL IMPACT REPORT

SPONSOR Small ORIGINAL DATE 1/25/18
LAST UPDATED 2/8/18 HB 142/aHENRC
SHORT TITLE False Statements to NMED SB _____
ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal	Minimal	Recurring	Various

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 80

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)

SUMMARY

Synopsis of HENRC Amendment

The House Energy, Environment and Natural Resources Committee amendment adds language specifying that a criminal penalty may be imposed on owners, operators, or their agents, of a public water system who *knowingly* make false statements to the NMED. The amendment also reduces the penalty of knowingly making false statements from a fourth degree felony to a misdemeanor.

Synopsis of Original Bill

House Bill 142 enacts a new section of the Environmental Improvement Act to provide for enforcement of criminal penalties for intentional false statements made to NMED. The provisions of HB80 would apply to owners or operators, or their agents, of public water systems. A person found guilty of violating the provisions could be charged with a fourth degree felony which carries with it a maximum 18 month prison sentence.

FISCAL IMPLICATIONS

NMED notes there may be a small cost to enforcing the provisions of SB80, but believes increased costs, if any, would be absorbed in the current budget.

SIGNIFICANT ISSUES

According to NMED:

NMED periodically receives information which has been knowingly falsified from persons regulated by the Department in drinking water programs. False information submitted to the Department can have serious public health consequences, can lead to significant costs to individuals and businesses dependent on reliably safe drinking water, and can compromise NMED's regulatory programs.

For example, a laboratory has reported that there has been a disinfectant (e.g., chlorine) added to a water quality sample being analyzed for microbiological organisms that was submitted by a public water system. The disinfectant was presumably added to prevent detection of bacterial contamination that would result in a violation of drinking water regulations, thereby compromising the protection of public health. Another example occurred when a public water system provided data included in monthly operating reports that indicated compliance, but were different than the data obtained by NMED through on-site inspections from the same time periods and equipment. False information can cause delay in NMED's discovery and, ultimately, remediation of the problem, thereby allowing more persons to potentially become sick, magnifying the consequences of contamination.

False information or omissions can have serious repercussions and should have serious consequences. NMED receives a large volume of technical information in making compliance determinations under its drinking water program and must rely on the correctness and accuracy of the information provided by public water systems. Without accurate information, facilities may be approved that may not adequately treat the water, contaminated water may be served to customers without their knowledge, and NMED may not be prompted to take the necessary corrective actions as soon as it should, when it should, potentially and unnecessarily compromising public health, safety, and welfare.

OTHER SUBSTANTIVE ISSUES

HB142 establishes the criteria for consequences and penalties in a comparable manner to those set out in other environmental protection statutes, namely the Water Quality Act, the Solid Waste Act, the Hazardous Waste Act, Radiation Control Act, and the Air Quality Control Act.

CJ/jle