

LFC Requester:	Jon Clark
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**AGENCY BILL ANALYSIS
2014 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the Bill no. in the email subject line, e.g., HB2, and only attach one Bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original Bill, amendment, substitute or a correction of a previous Bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date February 7, 2014
Bill No: HB356-305 Feb 7

Sponsor: Rep. Carl Trujillo **Reviewing** Attorney General's Office
Short Rural Electric Co-op Access **Person Writing** P. Cholla Khoury
Title: Fees **Phone:** 827-7484 **Email** ckhoury@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

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(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter.

This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis: This Bill amends subsection D of 62-15-3 NMSA 1978 so as to exclude rural electric cooperatives (co-ops) from being required to “provide service to any customer within the jurisdiction of a jurisdiction of a governmental entity, including an Indian nation, tribe or pueblo, if the provision of that service would result in the cooperative being in violation of the laws of the governmental entity.”

It also amends subsection H of 62-15-3 NMSA 1978 to prohibit a cooperative from “pay[ing] an access fee or trespass fine to a governmental entity, including an Indian nation, tribe or pueblo, for utility access to, on, over or under lands within that jurisdiction if that fee or fine is above the prevailing market value for comparable easements.”

In addition, the amendment changes the word “which” in a number of places to the word “that”.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

N/A

SIGNIFICANT LEGAL ISSUES

This Bill allows co-ops to deny service to customers if that service would result in the cooperative being in violation of a law of the jurisdiction in which that customer is located. The amendment to subsection D of the statute would not prohibit a co-op from providing services to such a customer, but it would not make service mandatory.

The amendment to subsection H prohibits co-ops from paying fines or fees above market value for comparable easements.

There appear to be no significant legal issues.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

None for the Attorney General’s Office

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

None for the Attorney General's Office

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

TECHNICAL ISSUES OR DRAFTING ERROR

None

OTHER SUBSTANTIVE LEGAL ISSUES

The enforcement of subsection H could raise some practical concerns. Determining the value of comparable easements may provide difficult in practice, especially if the parties cannot agree to the value or what constitutes a comparable easement.

ALTERNATIVES TO ENACTING THIS BILL

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The consequences of not enacting this Bill is that the status quo is maintained.

AMENDMENTS NEEDED TO IMPROVE THIS BILL

This Bill could benefit from guidance on how to determine market value or factors for comparing easements.