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### **FISCAL IMPACT REPORT**

SPONSOR:	Griego	DATE TYPED:	02/10/00	HB	
SHORT TITLE:	Sanitary Projects Associations			SB	143/aSJC
				ANALYST:	Kehoe

### **APPROPRIATION**

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
NFI					

(Parenthesis ( ) Indicate Expenditure Decreases)

### **REVENUE**

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	FY01			
(\$12.0 - \$15.0)	(\$12.0 - \$15.0)	(\$12.0 - \$15.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates/Conflicts with/Companion to/Relates to

**SOURCES OF INFORMATION**

New Mexico Finance Authority (NMFA)

LFC Files

**SUMMARY**

Synopsis of SJC Amendment

- Prohibits the formation, either by original incorporation or reorganization, of a Sanitary Projects Associations after January 1, 2000, unless the predecessor entity was in existence on January 1, 2000, if the service area includes property contiguous to an incorporated municipality. However, these restrictions will not apply if the contiguous incorporated municipality does not, or cannot provide the services below the cost proposed by the association.
  - Prohibits construction of a project by a Sanitary Project Association, if the project is required for the creation of a subdivision under the Land Subdivision Act or the New Mexico Subdivision Act. However, this restriction does not apply to projects that serve previously approved subdivisions.
  - Reverses a proposed change to the existing Act which would have eliminated the Department of Finance and Administration approval of Sanitary Project Association debt documents.

The first amendment is intended to prevent the creation of a redundant water or wastewater infrastructure at the periphery of municipalities, and to encourage these areas to take advantage of existing municipal utility service. According to the NMFA, the amendment would help to focus grants and below market rates financial assistance on those rural areas in most need of assistance.

The second amendment will aid in preventing developers from forming Sanitary Projects Associations simply to access state grants and below market rate loan dollars.

The last amendment would continue approval of Sanitary Association debt documents by the Department of Finance and Administration.

### Synopsis of Bill

Senate Bill 143 amends the Sanitary Projects Act to allow water systems formed under the Non-Profit Act or the Cooperative Association Act to merge themselves into Mutual Domestic Water Consumer Associations formed under the Sanitary Projects Act. The anti-donation clause of the state constitution prohibits these entities from taking advantage of below market rate loans or grants, either from severance tax proceeds, special appropriations, or from NMFA's new Water and Wastewater Project Grant Program.

### Significant Issues

Senate Bill 143 proposes the following substantive amendments to the Sanitary Projects Act:

- •Sections 1 and 2 redefines the term "department" to refer to the Environment Department rather than the Environment Improvement Division of the previous department known as the Health & Environment Department; deletes a provision that requires communities to have been in existence for at least 25 years prior to organizing as a Sanitary Projects Association; and deletes a requirement that subdivisions adjacent to incorporated communities are not eligible for benefits under the Act.
- •Section 3 allows Sanitary Project Associations to become indebted or issue bonds for refinancing or refunding outstanding debt or bonds.

- •A new section 4 allows water systems organized as cooperative associations and nonprofit corporations to reorganize themselves under the Sanitary Projects Act upon approval by a two-thirds vote of the directors of the cooperative association or nonprofit corporation.
- •Senate Bill 143 contains an emergency clause.

## **FISCAL IMPLICATIONS**

The water systems currently pay gross receipts taxes on water sales which benefit the general fund. According to the Environment Department, 104 water associations are organized as cooperative associations, and 18 water systems are organized as nonprofit corporations. These 122 systems serve a population of approximately 67,000 (16,808 connections). According to NMFA, the average water system user is charged \$18.37 per month for 6,000 gallons of water. If 16,808 connections are served for 12 months at \$18.37 per month at a GRT rate of .05, the impact on the general fund is approximately \$185.0. However, it cannot be assumed that all eligible systems will organize at once. The NMFA estimates between eight and ten water systems will reorganize per year and therefore the estimated reduction in general fund revenue will be between \$12.0 and \$15.0 per year.

## **OTHER SUBSTANTIVE ISSUES**

If Senate Bill 143 is enacted, the newly formed associations would be required to comply with the Open Meetings Act and the Procurement Act. In addition, the entities would be required to pay governmental gross receipt taxes rather than gross receipt taxes.

## **POSSIBLE QUESTIONS**

1. What is the current grant capacity of the new Water and Wastewater Project Grant Program?
2. What criteria must be met to qualify for a grant from the Water and Wastewater Project Grant Fund?

3. How many eligible entities have qualified or been given grants to date?

LMK/njw:sb