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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/07

SPONSOR Foley LAST UPDATED \_\_\_\_\_ HB 462

SHORT TITLE Water Trust Fund SB \_\_\_\_\_

ANALYST Kehoe

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
\$100,000.0		Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 55; relates to HB 53.

Relates to HB 7 and SB 2, both General Appropriation Acts.

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
\$100,000.0			Non-Recurring	Water Trust Fund (See Fiscal Implications)
	\$4,000.0		Recurring	Water Project Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB 55 Relates to HB 7 and HB 53.

### SOURCES OF INFORMATION

LFC Files  
 New Mexico Finance Authority (NMFA)  
 Energy, Minerals & Natural Resources Department (EMNRD)

### SUMMARY

House Bill 462 appropriates \$100 million from the general fund to the water trust fund for the purpose of carrying out the Water Project Finance Act.

## FISCAL IMPLICATIONS

The electorate in November 2006, by 60 percent of the vote cast, approved an amendment to Article 16 of the Constitution of New Mexico to create a water trust fund whose purpose is to secure a supply of clean and safe water for New Mexico residents. The fund shall consist of money appropriated, donated or otherwise accrued to the fund. Money in the fund shall be invested by the State Investment Council as land grant permanent funds are invested, and requires strict accountability and oversight measures as provided by the State Investment Council to ensure appropriate safety of and return on investments. Earnings from investment of fund shall be credited to the fund and shall not revert or be expended for any purpose.

Laws 2006, Chapter 109, provided for the transfer of \$40 million from the general fund at the beginning of fiscal year 2007 to the water trust fund created by the Water Finance Act.

According to the constitutional provision, on July 1, 2008 and each fiscal year thereafter, an annual distribution shall be made from the water trust fund pursuant to state law, and that distribution shall then be appropriated by the legislature only for water projects consistent with a state water plan and as otherwise provided by law to support critically needed projects that preserve and protect New Mexico's water supply.

According to the Water Finance Act, the \$100 million appropriation to the water trust fund proposed in House Bill 462 would be invested by the State Investment Officer in the same manner that the land grant permanent funds are invested. Section 72-4A-8 of the Act provides that on July 1 of each fiscal year, annual distribution will be made from the water trust fund to the water project fund in the amount of \$4 million until the amount is less than an amount equal to 4.7 percent of the average of the year-end market values of the water trust fund for the immediate preceding five calendar years.

Laws 2003 (Chapter 134) requires the Board of Finance to authorize and issue bonds for 10 percent of the severance tax bonding capacity each year for deposit in the water project fund. The 10 percent set-aside of severance tax bond capacity for FY07-08 will provide approximately \$32.7 million to the water project fund for eligible water projects. Money from the severance tax bonds may not be used to pay indirect project costs, and any unexpended balance from proceeds of severance tax bonds issued for a water project shall revert to the severance tax bonding fund within six months of completion of the water project. NMFA is responsible for monitoring and ensuring proper reversions.

Eligible water projects are defined as those involving: 1) the storage, conveyance or delivery of water to end-users; 2) the implementation of federal Endangered Species Act collaborative programs; 3) the restoration of watersheds; 4) flood prevention; 5) conservation; or 6) for recycling, treatment or reuse of water. In 2005, the Act was amended to add the category of "water rights adjudication" to provide automatic funding in an amount equal to 10 percent of the annual distribution to the water project fund. In 2005, the Act was amended to add the category of "water rights adjudication" to provide automatic funding in an amount equal to 10 percent of the annual distribution to the water project fund for use by the Office of the State Engineer and the Administrative Office of the Courts.

The appropriation of \$100 million contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

**SIGNIFICANT ISSUES**

The water trust board has adopted rules governing the terms and conditions of grants or loans recommended by the board for appropriation by the Legislature from the water project fund. Conforming with statutory obligations, the rules give priority to projects that have urgent needs, that have been identified for implementation of a completed regional water plan that is accepted by the Interstate Stream Commission, and that have matching contributions from federal or local sources. As per the Water Finance Act, NMFA provides staff support for the board, develops application procedures and forms for political subdivisions to apply for grants and loans from the water project fund, and make loans or grants for water projects authorized by the Legislature. Other actions taken by the water trust board have included adoption of bylaws, approval of an open meeting resolution, and a per diem and mileage policy.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill duplicates House Bill 55 in its entirety.

House Bill 7 and Senate Bill 2 propose to transfer \$50 million to the Water Trust Fund in fiscal year 2008.

The executive capital outlay budget for 2007 recommends a \$25 million appropriation to the Water Trust Fund.

House Bill 53 increases the membership of the Water Trust Board from fifteen to sixteen members by adding the secretary of the Department of Finance and Administration, and requires that the chair be elected a majority of the board members. The State Engineer is the current chair.

LMK/mt