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FISCAL IMPACT REPORT

ORIGINAL DATE 2-06-07

SPONSOR Anderson LAST UPDATED _____ HB 807

SHORT TITLE Repeal Albuquerque-Bernalillo Water Authority SB _____

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

Attorney General's Office (AGO)¹

New Mexico Municipal League (NMML)

SUMMARY

Synopsis of Bill

House Bill 807 seeks to repeal NMSA Section 72-1-10 which establishes the "Albuquerque-Bernalillo county water utility authority". There is no appropriation attached to this legislation.

SIGNIFICANT ISSUES

The New Mexico Attorney General's Office (AGO) advises that that the Albuquerque Bernalillo County Water Utility Authority is a joint agency of the City of Albuquerque and the County of Bernalillo which administers the water and wastewater utilities for all of Albuquerque and Bernalillo County. The Authority was created on June 21, 2003 by New Mexico Senate Bill 887 (Laws 2003, Chapter 437, codified as NMSA 1978, Section 72-1-10). That legislation required

¹ AGO comments include the caveat: "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."

that all functions, appropriations, money, records, equipment and other real and personal property of the Albuquerque water and wastewater utility be transferred to the Albuquerque-Bernalillo water utility authority. The City of Albuquerque, County of Bernalillo, and Water Utility Authority have entered into a joint powers agreement and memorandum of understanding describing their respective obligations and duties.² Its Customer Services Division currently services over 165,000 water and sewer accounts in the established service area. In addition to water and wastewater billing, Customer Service also bills for refuse collection.³

AGO suggests that if this bill is enacted, the ownership of the water and wastewater utilities currently administered by the Authority will be uncertain. Further, that the bill may be related to the Authority's condemnation action to acquire New Mexico Utilities, Inc. NMUI provides water and wastewater services to portions of Rio Rancho and Albuquerque's West Side.⁴

The Office of the State Engineer (OSE) notes that the Albuquerque-Bernalillo county water utility authority consists of members of the Albuquerque City Council, the County Commission and the Mayor of Albuquerque. The Albuquerque-Bernalillo county water utility authority currently owns all of the water and wastewater assets and infrastructure formerly owned by the City of Albuquerque. The authority has determined rates for water and wastewater services and currently provides those services to residents in Bernalillo County. In addition, OSE suggests that the Albuquerque-Bernalillo county water utility authority is a party to certain lawsuits such as the silvery minnow Endangered Species Act litigation and a condemnation action involving New Mexico Utilities, Inc. If Section 72-1-10 were repealed the status of current water and wastewater services, contracts and lawsuits would have to be determined.

The New Mexico Municipal League (NMML) indicates that this bill will require the assets and liabilities of the authority be returned to their original source, whether that is the City of Albuquerque or Bernalillo County. The bill may impact any bonds or loans that have been issued or incurred by the Authority; such would have to be properly allocated between the City and County.

Further, NMML advises that the bill will result in a return to the status quo prior to 2003 when the authority was created. The City would be free to operate its water and wastewater system without securing County authority and the County would have similar powers and authority, and enacting the bill could result in the duplication of some services.

BFW/csd

² <http://www.abcwua.org/news.html>

³ <http://www.abcwua.org/customerservices/about.html>

⁴ <http://www.abcwua.org/pdfs/MythsVsFact%20.pdf>.