

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/12
 LAST UPDATED 02/13/12 HB 95/aSFC

SPONSOR Nuñez

SHORT TITLE Water Project Fund Projects SB _____

ANALYST Kehoe

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
(\$26,470.0)	(\$24,600.0)		Recurring	Severance Tax Bond Capacity
\$26,470.0	\$24,800.0		Recurring	Water Project Fund
	(\$4,000.0)		Recurring	Water Trust Fund
	\$4,000.0		Recurring	Water Project Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to House Bill 95 strikes the words “the city of Sunland Park in,” thereby authorizing the New Mexico Finance Authority to make a loan or grant from the water project fund to Dona Ana County rather than to the city of Sunland Park.

Synopsis of Original Bill

House Bill 95, for the New Mexico Finance Authority Oversight Committee, authorizes the New Mexico Finance Authority (NMFA) to make loans or grants from the water project fund for 55 qualifying projects on terms and conditions established by the Water Trust Board (WTB) and the New Mexico Finance Authority (NMFA). The bill contains an emergency clause.

FISCAL IMPLICATIONS

Laws 2003 (Chapter 134) requires the Board of Finance to authorize and issue bonds for 10 percent of the severance tax bond (STB) capacity each year for deposit in the water project fund. The 10 percent set-aside of STB capacity for FY12 will provide approximately \$26.4 million to the water project fund for eligible water projects. Revenue estimates indicate approximately \$24.6 million will be available in FY13.

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. The value of the 10 percent of severance tax bond capacity can change from year to year depending on oil and gas revenues.

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 creating the water trust fund approved in November 2006 and in accordance with state law, on July 1, 2008 for FY09 and each fiscal year thereafter, an annual distribution shall be made from the water trust fund to the water project 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.

Section 72-4A-8 of the Water Finance 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 2005 (Chapter 293) provides that 10 percent of all funds in the water project fund (approximately \$2.6 million) may be allocated to the Office of State Engineer (OSE) to be used for adjudication. Of the OSE allocation, 20 percent (approximately \$529,000) will transfer to the Administrative Office of the Courts for adjudication purposes.

SIGNIFICANT ISSUES

The water project fund and water trust board were created by the Water Finance Act. According to the Act, once authorized by the Legislature, the water trust board reviews all projects and determines qualifying entities and projects for consideration of loans or grants from the water project fund.

Soon after the 2012 Legislative Session adjourns, the WTB will review all projects authorized by the Legislature for funding from the fiscal year 2012 distribution to the WPF. Eligible water projects pursuant to the Water Finance Act 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.

According to NMFA, in FY11 the WTB received 78 applications for review and consideration by the board for financial assistance from the WPF. After reviewing and evaluating the applications, the WTB recommended 55 qualified entities contained in this bill to request

legislative authorization for financial assistance. The total amount requested for the projects contained in this bill is approximately \$111 million.

ADMINISTRATIVE IMPLICATIONS

The NMFA is responsible for administering the projects recommended by the water trust board from the water project fund and is responsible for monitoring and ensuring proper reversions.

Since the inception of the water project fund in 2001, the Authority has recovered administration costs over seven years from the interest earnings of the undisbursed monies of state general funds appropriated in 2002 totaling \$17.5 million for the water projects. However, due to the growth of the program and the change of distributions from severance tax bond capacity rather than from the state general fund, the Authority has been unable to recover a significant portion of its administrative costs for the past two fiscal years in excess of \$1.6 million. The Authority identified four options to recover its annual administrative costs summarized as follows:

1. State Board of Finance (BOF) approval to receive the full amount of STB proceeds when the bonds are sold. The BOF currently holds \$90 million in undisbursed bond proceeds for water projects. Receiving full amount would allow interest earnings for administrative costs. **NMFA has been told by BOF this is not a viable option.**
2. Propose amendment to the Severance Tax Bond Act to allow for the use of STB proceeds to pay for indirect administrative project costs. **NMFA will not pursue at this time.**
3. Potentially utilize annual repayments on the loan portion of the funded water projects to recover administrative costs. The Authority will generate nearly \$1 million in loan principal repayments which could be used to recover administrative costs. Lastly, the Authority may recover administrative costs from the annual distribution from the Water Trust Fund, approximately \$4 million annually.
4. Lastly, the Authority may recover administrative costs from the annual distribution from the Water Trust Fund, approximately \$4 million annually.

According to the Authority, they will utilize Option 3, the annual repayments of the loan portion of the water projects funded to recover administrative costs. The loan repayments will average over \$950,000 annually over the next 10 years—more than sufficient to cover the Authority's estimated \$800,000 annual administrative costs associated with the water project fund. Any unused loan repayments remaining after recovering the administrative costs will go toward the following year's allocation of funds to be used for project funding.

OTHER SUBSTANTIVE ISSUES

As of December 31, 2011, the WTB has awarded funds for 222 projects totaling approximately \$225.9 million. Of the 55 entities applying for consideration by the WTB in the 2012 cycle, 15 of the entities have not previously sought legislative authority to seek financing from the WPF.