F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	02/07/12		
SPONSOR	Lundstrom	**LAST UPDATED**	02/13/12	**HB**	277/aHBIC/aHTRC
SHORT TITLE	Federal Water Projects Gross Receipts			**SB**	
				ANALYST	Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	**FY13**	**FY14**		
$0.0	$0.0 to $1,500.0	$0.0 to $1,500.0	Recurring	Local Governments
$0.0	Small impact See discussion	Small impact See discussion	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates SB 289 (as amended)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Office of the State Engineer (OSE)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 277 strikes the House Business and Industry Committee amendments 2 & 3 and adds a definition of “municipality” to mean an incorporated municipality that has a population of greater than twenty thousand but less than twenty-five thousand according to the most recent federal census and is located in a class B county.

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to House Bill 277 changes language in the bill to state that a municipality shall dedicate the revenue from this tax for the repayment of loan obligations to the federal government for the construction, expansion, operation and maintenance of a water delivery system, rather than that they may dedicate it for this purpose. HBIC also added language to define a “municipality” as one in a class B county that has a population between 20,000 and 25,000.

Synopsis of Original Bill

House Bill 277 enacts a new section of the Municipal Local Option Gross Receipts Taxes Act. The new section imposes the "Federal Water Project Gross Receipts Tax". A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality. The rate shall not exceed 0.25 percent of the gross receipts. This ordinance goes into effect January 1 or July 1 following an election in which a majority of voters in the municipality vote in favor of imposing the tax. If this tax is imposed then the municipality shall not also impose a municipal capital outlay gross receipts tax.

The revenue from this tax can be dedicated to the repayment of loan obligations to the federal government for the construction, expansion, operation and maintenance of a water delivery system and for the expansion, operation and maintenance of that water delivery system after the loan obligation to the federal government is retired or repaid. The revenue cannot be used to repay revenue bonds or any other form of bonds.

The effective date of this bill is July 1, 2012. There is no sunset date. The LFC recommends adding a sunset date.

FISCAL IMPLICATIONS

This bill will generate revenue for municipalities or local government if approved by voters in an election. This bill has no fiscal impact on the general fund or any other State funds.

HTRC amendment: This amendment authorizes only Gallup to impose a federal water project gross receipts tax of up to 0.25%. The bill creates a very small positive impact for the General Fund and the Taxation Revenue Department through the action of the 3% administrative fee (Section 7-1-6.41 NMSA 1978) and additional 0.25% by the HB-2 in the 2011 legislative session and proposed for the 2012 session. Primarily, however, this bill would generate revenue to Gallup if voters there approved it. Gallup is the only qualifying municipality which has the population 21,678 and is located in McKinley County (class B). The revenue of the City of Gallup would increase by approximately $1.5 million each year if Gallup's voters approved the whole 0.25% authority. This estimate is based on the average taxable gross receipts in RP-80 reports of the last three fiscal years multiplied by a tax rate of 0.25%. The 3% administrative fee would increase General Fund revenues by approximately $45,000 and TRD operating fund by about $4,000.

HBIC Amendment: This bill, as amended, intends to restrict this federal water project gross receipts tax to Gallup which has the population 21,678 and is located in McKinley County (class B). The revenue of the City of Gallup would increase by approximately $1.5 million each year if Gallup voters approved the whole .25% authority. This estimate is based on the taxable gross receipts in RP-80 reports of the last three fiscal years multiplied by a tax rate of 0.25%.

Per the OSE, in defining the term "municipality" as it pertains to this bill, the amendment significantly limits the number of municipalities that could seek to enact the tax. The City of Gallup is the only city with a population level that falls within the specified population range.

Original Bill: According to the TRD, Albuquerque, Santa Fe, Taos, Gallup and, perhaps, other municipalities in the state might impose the federal water project gross receipts tax under this bill. There are no restrictions on the use of the funds or the entities eligible to impose the tax. The only criterion is that the imposition must be put to the voters for approval. Of the four municipalities mentioned above, Santa Fe would lose the municipal capital outlay gross receipts tax if it imposed the federal water project gross receipts tax. The estimate is based on the taxable gross receipts in RP-80 reports of last three fiscal years for the four municipalities mentioned with a tax rate 0.25%.

SIGNIFICANT ISSUES

The SFC amendment address policy issues 1. According to the TRD, the key policy issues here are (1) although named as "federal water project gross receipts tax", in fact, there is no restriction on the use of the funds for the named purpose. This is quite unusual. Of course, an ordinance enacted by a municipality asking the voters to approve the tax would have to declare how the funds were to be used. (2) With average gross receipts rates statewide approaching 7 percent and the peak rate at 8.6875 percent (Taos Ski Valley), further gross receipts tax increases might be slow to receive voter approval.

According to the OSE, if passed the revenues from the Federal Water Project Gross Receipts Tax will provide the City of Gallup with the ability to generate the revenue necessary to develop a renewable water supply as Gallup groundwater supply is finite and is being exhausted.

The DFA reports that the NM Municipal League (NNML) is not taking an active position on this bill; however, the NMML does not take issue with the proposal.

ADMINISTRATIVE IMPLICATIONS

According to the TRD, this bill will have a low impact (60 hours) on the staffing resources of the Department's information systems team and a low impact on the distribution process.

The TRD questions whether it is appropriate to restrict this authority to Gallup. There are other municipalities have federal water projects in the State, so restricting financing mechanism this to Gallup seems unusual.

TECHNICAL ISSUES

The TRD identified that on Page 2, line 5, "may" should be replaced by "shall" to limit the revenue only for the repayment of loan obligations to the federal government on the water project. The HBIC amendment makes this change.

The rate is expressed as "not to exceed one-fourth percent." In the usual practice, this is expressed as "the tax may be imposed of increments of one-sixteenth of one percent not to exceed an aggregate rate of one-fourth of one percent," allowing the adopting municipalities maximum flexibility but minimizing the administrative problem of having to reprogram the GRT processing system for each new enactment.

OTHER SUBSTANTIVE ISSUES

According to the TRD, the municipal capital outlay gross receipts tax (Section 7-19D-12 NMSA 1978) is virtually identical to this authorization, except that the MCOGRT can be enacted in increments of 1/16 percent to a maximum of .25 percent (the same as this authorization) and the proceeds of the MCOGRT are restricted to infrastructure, but cannot be used to repay loans to federal government for water projects. Since this standalone municipal gross receipts tax is an either/or authority, a more artful way of drafting for this purpose would be to include repayment of water loans to the federal government in the allowed purposes of the municipal capital outlay gross receipts tax (Section 7-19D-12(C) NMSA 1978). This would also address the two technical issues identified above.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

EWM/lj:svb