LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: SB 101 **51st Legislature, 1st Session, 2013**

Tracking Number: 191063.1

Short Title: Energy Conservation Bonds

Sponsor(s): Senator Peter Wirth

Analyst: Sarah Amador-Guzman **Date: February 6, 2013**

Bill Summary:

SB 101 authorizes the State Board of Finance (BOF) to:

- develop administrative rules that would determine allocation capacities;
- decide a timeline for submissions;
- set up a distribution of Qualified Energy Conservation Bonds (QECBs), as defined in Section 54D of the federal Internal Revenue Code (IRC); and
- establish a framework for BOF to begin developing criteria for issuing QECBs.

Among its other provisions, the bill:

- allows large local governments to use the proceeds from these QECBs to finance a wide range of clean energy projects and activities, including:
  - energy efficiency;
  - renewable energy;
  - clean fuels;
  - efficient transportation; and
  - public outreach;
- allows large local governments to take advantage of this federally authorized mechanism for financing clean energy projects and creating jobs in the state;
- defines "large local government," in accordance with the federal provision, as a municipality or county with a population greater than 100,000 or an Indian tribal government; and
- establishes mechanisms for the BOF to distribute the state's remaining allocation to qualified bond issuers desiring to designate bonds as qualified energy conservation bonds.

Fiscal Impact:

According to the Department of Finance and Administration (DFA), the ongoing activities required by this bill, if enacted, and several others expected this session will incrementally increase workload of BOF staff. To the extent that several of them may pass, BOF may require additional staff.

<u>Fiscal Issues</u>:

According to DFA's bill analysis, the bonds are issued as tax credit bonds (TCBs) that allow the bondholder to claim a federal tax credit equal to a percentage of the bond's par value for a limited number of years.

In addition:

- the state and other issuers pay no interest to bondholders;
- the federal government pays the interest through the tax credit; and
- there are no identifiable costs to the state to issue bonds, other than rulemaking and administrative costs incurred by agencies.

For QECBs, the tax credit percentage is set to 70 percent of the current yield on taxable corporate bonds.

According to the Energy, Minerals and Natural Resource Department (EMNRD) bill analysis, enactment of SB 101 will:

- provide financing for many types of clean energy projects;
- reduce energy consumption in publicly owned buildings by at least 20 percent; and
- provide financing for energy projects that often have high upfront costs, that are prohibitive to continuing the project.

According to DFA, BOF would need to determine through rule:

- whether the criteria for approval should be conservation-related, meaning the project with the largest conservation impact, or bond-related, meaning the project that is the most ready/financially sound; and
- the selection of agency, BOF or EMNRD, that is better suited to approve applications.

<u>Substantive Issues</u>:

According to DFA's bill analysis, the qualified conservation purposes, cited in SB 101, include:

- certain clean and renewable energy capital expenditures;
- research projects;
- mass commuting facilities;
- demonstration projects designed to promote the commercialization of clean energy technologies; or
- public education campaigns.

Bond issuance is allocated to the state and large local governments according to population. The federal IRC provides that county allocations should be determined with the exclusion of the population of any municipality that is a large local government. In this case, the Albuquerque population is excluded from the Bernalillo County population for the determination of the county allocation.

According to similar bill analysis conducted by the Legislative Finance Committee during the 2011 legislative session, the figure below illustrates the allocation to New Mexico by county:

Expected Allocation of QECBs for 2009			
	Population*	% of Population	QECB Allocation
State	1,984,356	100.00%	$20,587,000
Counties			
Bernalillo	113,140	5.70%	$1,173,788
Dona Ana	201,603	10.16%	$2,091,561
Sandoval	122,298	6.16%	$1,268,799
San Juan	122,500	6.17%	$1,270,895
Santa Fe	143,937	7.25%	$1,493,296
Cities			
Albuquerque	521,999	26.31%	$5,415,557
Total			$12,713,896
All Other	758,879	38.24%	$7,873,104

*2008 Population – U.S. Census Estimates

Source: EMNRD. The Bernalillo County population and percentage were corrected to exclude the Albuquerque population as specified under Section 54D of the IRC.

According to provisions from the federal IRC, up to 30 percent of the total allocation can be used to issue private activity bonds but only for the purpose of capital expenditures.

Technical Issues:

According to the DFA bill analysis, the:

- proposed projects and evaluation screening criteria for completed projects under SB 101 are not well defined; and
- large local governments authority is unclear as to whether or not they have sufficient authority and information to be able to proceed with QECB issuances, if enactment of SB 101 fails, based upon federal law and the feasibility of establishing large local governments' allocations using the mandated allocation formula for large local governments found in law.

Background:

The *American Recovery and Reinvestment Act of 2009* created QECBs in the IRC. These bonds may be issued by each state and "large local government." The national bond cap volume is set at $3.2 billion, of which New Mexico is allocated $20,587,000.

SB 101 requires the BOF to determine the amount under the federal act to be allocated to each large local government.

Committee Referrals:

SCONC/SFC

Related Bills:

None as of February 6, 2013