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FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/13
 SPONSOR Papen LAST UPDATED 02/07/13 HB _____
 SHORT TITLE NMFA Water Fund & Acequia Projects SB 228/aSCONC
 ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
(\$33,300.0)	(\$31,300.0)	Recurring	Severance Tax Bond Capacity
\$33,300.0	\$31,300.0	Recurring	Water Project Fund
(\$4,000.0)		Recurring	Water Trust Fund
\$4,000.0		Recurring	Water Project Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)
 New Mexico Environment Department (NMED)
 Office of State Engineer (OSE)

SUMMARY

Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to Senate Bill 228 authorizes the Water Trust Board and the New Mexico Finance Authority to make loans or grants from the water project fund for the following three entities and projects:

1. to the Pueblo of Cochiti in Sandoval County for a flood preservation project;
2. to the Pueblo of Cochiti in Sandoval County for a watershed restoration and management project; and
3. to the Valley Estates Mutual Water and Sewer Association in Rio Arriba County for a water storage, conveyance and delivery project.

Synopsis of Original Bill

Senate Bill 228, for the New Mexico Finance Authority Oversight Committee, authorizes the New Mexico Finance Authority (NMFA) to make loans or grants for 62 qualifying projects from the water project fund and to make grants to seven (7) qualifying acequia projects from the acequia project fund. The loans or grants are based on terms and conditions established by the Water Trust Board (WTB) and the New Mexico Finance Authority (NMFA) in accordance with the Water Finance Act. 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 FY13 will provide approximately \$33.3 million to the water project fund for eligible water projects. Revenue estimates indicate approximately \$31.3 million will be available in FY14 and \$30.6 million in FY15.

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) provides 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 \$3.7 million) may be allocated to the Office of State Engineer (OSE) to be used for adjudication. Of the OSE allocation, 20 percent (approximately \$746,000) will transfer to the Administrative Office of the Courts for adjudication purposes.

The acequia project fund, created within the Water Finance Act, is capitalized by a \$200,000 contribution from a private foundation. According to NMFA, \$90,000 is currently available for grants for the seven acequias listed within this bill.

SIGNIFICANT ISSUES

The water project fund (WPF) and water trust board (WTB) were created by the Water Finance Act. According to the Act, once authorized by the Legislature, the WTB reviews all projects and

determines qualifying entities and projects for consideration of loans or grants from the water project fund.

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.

Regulations and policies established by the WTB require a minimum contribution from all applicants in the form of matching funds. In September 2010, a policy change increased the range of the loan component from between 10 percent to a maximum 40 percent. The remainder of the award is in the form of a grant. Certain projects such as tribal, watersheds, and endangered species are able to substitute other matching funds in place of the loan component. The interest rate of the loan is zero percent, and the annual principal payment includes a .025 percent administrative fee.

According to NMFA, in October 2012, the WTB received 87 applications for review and consideration by the board for financial assistance from the WPF. After reviewing and evaluating the applications, the WTB recommended 62 prioritized 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 \$87.6 million.

Pursuant to the Water Project Finance Act, the WTB implemented the statutory guidance within the Act through separately adopted policies and rules to establish the acequia project fund. The New Mexico Interstate Stream Commission within the Office of the State Engineer submitted a prioritized list of seven acequias for evaluation by the WTB for funding from the acequia project fund. The seven acequias requiring legislative authorization are listed within Section 2 of Senate Bill 228. This is the second year acequia projects were submitted to the WTB for review and consideration of grants and the first time submitted to the Legislature for authorization.

ADMINISTRATIVE IMPLICATIONS

The staffs of the New Mexico Environment Department and the Office of the State Engineer provide technical assistance in reviewing water system projects. The NMFA is responsible for administering the projects and is responsible for monitoring and ensuring proper reversions.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without legislative authorization of the projects contained in the bill, the communities seeking funding for projects in this bill will not be able to improve their water systems statewide.

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