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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/14

SPONSOR Trujillo, Carl **LAST UPDATED** _____ **HB** 299

SHORT TITLE Water Supply Assoc. & Acequia Project Funding **SB** _____

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
3,250.0	\$3,420.0	Recurring	Water Project Fund (See Fiscal Impact Narrative)

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 257, SB 112, and SB 254

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)

Office of State Engineer/Interstate Stream Commission (OSE/ISC)

SUMMARY

Synopsis of Bill

House Bill 299 amends the Water Finance Act to provide that at least 10 percent of funds transferred to the water project fund for water projects each year be expended to benefit water supply associations subject to the Sanitary Projects Act and acequia associations.

FISCAL IMPLICATIONS

The provision contained in this bill is a recurring expense to the water project fund for expenditure in fiscal year 2014 and subsequent fiscal years. 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.

Laws 2003 (Chapter 134) requires the Board of Finance to authorize and issue bonds for 10 percent of the severance tax bonding capacity each year for deposit in the water project fund. The 10 percent set-aside of severance tax bond capacity for FY14 will provide approximately

\$28.5 million to the water project fund for eligible water projects. The forecast in future years is approximately \$30.2 million in FY15 and approximately \$28 million in FY16. Section 72-4A-8 of the Water Finance Act provides that on July 1 of each fiscal year, an 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.

Based on estimated severance tax bond for future years, the passage of this bill requires that at least \$3.2 million in FY2015 and at least \$3.4 million in FY2016 be spent on water projects that would directly benefit water supply associations subject to the Sanitary Projects Act and acequia associations. The value of the 10 percent of severance tax bond capacity can change from year to year depending on oil and gas revenues.

Laws 2005 (Chapter 293) provides that 10 percent of all funds in the water project fund (approximately \$3.3 million) may be allocated to the Office of State Engineer (OSE) to be used for adjudication. Of the OSE allocation, 20 percent (approximately \$660 thousand) 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 thousand contribution from a private foundation. According to NMFA, \$90 thousand is currently available for grants for the seven acequias listed within this bill.

The acequia project fund, created within the Water Finance Act, was originally capitalized by a \$200 thousand contribution from a private foundation. According to NMFA, \$100 thousand is currently available for grants. 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.

According to the OSE/ISC, since 2005 in all but one year, funding for mutual domestic and acequia associations exceeds the 10 percent proposed in this bill with an average of 16 percent as demonstrated in the following table:

Water Trust Board Funding

YEAR	PERCENT
2005	19%
2006	19%
2007	16%
2008	17%
2009	15%
2010	15%
2011	7%
2012	24%
2013	11%
AVERAGE	16%

SIGNIFICANT ISSUES

The Sanitary Projects Act was enacted in 1947 to address infant mortality and other health impacts due to inadequate water supplies in rural New Mexico. The water systems are generally referred to as Mutual Domestic Water Consumer Associations (MDWCA). According to the New Mexico Environment Department (NMED), there are approximately 200 MDWCA in New Mexico. The associations are governed by three or more board members and are a public entity eligible for public funding subject to the Open Meetings Act, Inspection of Public Records Act, Procurement Code, and State Audit Act. In 2006, the Sanitary Projects Act was amended to require MDCWA board members to complete an annual budget, periodically conduct a rate analysis, to shut off unauthorized connections or a connection for which charges are delinquent in payment. The NMED oversees the compliance of the Sanitary Projects Act and has the authority to issue compliance orders and assess penalties.

In accordance with Chapter 73, Article 2, 73-2-28, acequia and community ditch associations are considered political subdivisions of the state and can accept state grants and are authorized to receive loans from the Interstate Stream Commission and from the New Mexico Irrigation Works Construction Fund. The acequia associations have historically been a principal local government unit for the distribution and use of surface water and have the power of eminent domain. There are an estimated 700 to 800 acequias in New Mexico mostly concentrated in northern New Mexico including Taos, Rio Arriba, Mora, San Miguel, Sandoval, Santa Fe, and Guadalupe Counties, but also located in Bernalillo County (South Valley), Lincoln County, Grant County, and Cibola County among others. The associations do not have the power to tax, so the expenses of maintenance and improvements are paid for by the users of the irrigation systems.

ADMINISTRATIVE IMPLICATIONS

The water project fund is administered by the New Mexico Finance Authority. The Authority makes grants and loans to qualified entities for eligible projects authorized by the Legislature and recommended by the Water Trust Board.

RELATIONSHIP

HB 257 appropriates \$150 thousand from the general fund to the acequia and community ditch fund for expenditure in fiscal year 2015 and subsequent fiscal years to carry out the purposes of the Acequia and Community Ditch Fund Act.

SB 112 authorizes the NMFA to make loans or grants for 120 projects from the water project fund. The bill further authorizes the NMFA to make grants to five (6) acequia projects from the acequia project fund.

SB 254 appropriates \$100 thousand from the general fund to the Local Government Division of the Department of Finance and Administration (DFA) for an acequia and community ditch education program.

LMK/svb:jl