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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/14

SPONSOR Campos LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Water Trust Fund SB 42

ANALYST Kehoe

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	(\$18,000.0)	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		
	\$18,000.0		Nonrecurring	Water Trust Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Environment Department (NMED)

New Mexico Finance Authority (NMFA)

Office of the State Engineer/Interstate Stream Commission

### SUMMARY

#### Synopsis of Bill

Senate Bill 42 appropriates \$18 million from the general fund to the water trust fund for the purpose of carrying out the purpose of the fund.

### FISCAL IMPLICATIONS

The appropriation of \$18 million contained in this bill is a nonrecurring expense to the general fund for expenditure in fiscal year 2015 and subsequent fiscal years. Any unexpended or

unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

Laws 2006 (Chapter 109) transferred \$40 million from the general fund to the water trust fund, and Laws 2007 (Chapter 28) transferred \$15 million from the general fund to the water trust fund. According to the State Investment Council (SIC), as of September 19, 2013, the value of the water trust fund was \$43.9 million.

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.

According to the State Investment Council, an asset study led to revising investment targets. While the new asset allocation improves the outlook of the fund and reduces volatility, it does not fix long-term Water Trust Permanent Fund problems. According to the report, assuming average investment returns and no inflows, there is a better than 50 percent chance the funds will be reduced to zero dollars by 2033. Assuming poor market returns, the fund could be reduced to zero dollars by 2027. The SIC report indicates additional legislative appropriations are needed for sustainability of the water trust fund.

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. Money from the 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.

## **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.

## **SIGNIFICANT ISSUES**

According to the constitutional provision (Article 16 of the Constitution of New Mexico) passed by the voters on November 7, 2006, “the water trust fund was created in the state treasury to conserve and protect the water resources of New Mexico and to ensure that New Mexico has the water it needs for a strong and vibrant future. The purpose of the fund shall be to secure a supply of clean and safe water for New Mexico’s residents. The fund shall consist of money appropriated, donated or otherwise accrued to the fund. Money in the funds shall be invested by the State investment officers as Land Grant Permanent funds are invested, and there shall be strict accountability and oversight measures as provided by the State Investment Council to ensure appropriate safety of and return on investments. Earnings from investment of the fund shall be credited to the fund. Money in the fund shall not revert or be expended for any purpose, but an annual distribution shall be made to the water project fund, which shall be used only to

support critically needed projects that preserve and protect New Mexico’s water supply. Further, On July 1, 2008 and each fiscal year thereafter, an annual distribution shall be made from the water trust fund pursuant to 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.”

**OTHER SUBSTANTIVE 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. 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.

LMK/ds