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

		ORIGINAL DATE	1/29/20		
SPONSOR	Candelaria	**LAST UPDATED**	2/14/20	**HB**	
SHORT TITLE	Cultural Affairs Facilities Infrastructure			**SB**	103
				ANALYST	Edwards

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	**FY21**		
	$5,000.0	Nonrecurring	Cultural Affairs Facilities Infrastructure Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	**FY21**	**FY22**		
($5,000.0)			Nonrecurring	Public Project Revolving Loan Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 27, House Bill 47, House Bill 163, House Bill 167, Senate Bill 69

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Finance and Administration (DFA)
New Mexico Finance Authority (NMFA)
Department of Cultural Affairs (DCA)

SUMMARY

Synopsis of Bill

Senate Bill 103:
1. Removes sections 1A and 1B of existing statute regarding issuance of bonds to capitalize the fund.

2. Creates the Cultural Affairs Facilities Infrastructure Fund and permits the fund to receive transfers from the Public Project Revolving Loan Fund (PPRF).
3. Moves responsibility for the Public Project Revolving Fund from the Environment Department to the Department of Finance and Administration (DFA) to work with the New Mexico Finance Authority oversight committee regarding recommendations. These recommendations may be made annually to each regular session of the legislature for each fund.
4. Updates language pertaining to a "local government" planning fund from the water and wastewater planning fund.
5. Appropriates $5 million from the PPRF in FY21 to the Cultural Affairs Facilities Infrastructure Fund for expenditure in fiscal year 2021 and subsequent fiscal years.

FISCAL IMPLICATIONS

The appropriation of $5 million contained in this bill is a nonrecurring expense to the Public Project Revolving Loan Fund (PPRF). Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

NMFA explains:

> The PPRF has achieved an AAA/Aa1 senior lien bond rating and an AAA/Aa2 subordinate lien bond rating by effectively structuring underlying PPRF loans and utilizing legislative and strategic credit enhancements. The key PPRF credit enhancement is the 75 percent share of GGRT received by the PPRF pursuant to Section 7-1-6.38(A) of the Tax Administration Act. Funded indentured reserve accounts in the form of the NMFA's Senior Lien Common Debt Service Reserve Fund ("CDSRF") and Subordinate Lien Supplemental Credit Reserve Fund ("SCRF") are the visible strategic credit enhancements.
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> The PPRF has a legal obligation to make all PPRF debt service payments when due in December and June of each year. During the course of each fiscal year, all PPRF loan revenues and all Governmental Gross Receipts Tax ("GGRT") disbursements are legally dedicated to bond debt service of PPRF bonds and held in a trust bank account until all bond debt service payments are made for the fiscal year, concluding on June 15th. After June 15th, any excess loan revenues and available GGRT funds are available to be designated for one of three purposes in ascending level of legal availability: (1) replenishing or enhancing to required levels the PPRF's two indentured reserve funds mentioned above, namely (i) the senior lien CDSRF, and (ii) the subordinate lien SCRF; (2) funding annual legislatively enacted mandates, pursuant to Section 6-21-6.1(C) of the NMFA Act; and (3) paying PPRF operating costs and providing the PPRF with ongoing liquidity and capacity enhancing new money. This mechanism ensures accountability of the use of PPRF funds for other than PPRF purposes and enables the NMFA to manage PPRF appropriations with rating agencies and investors in a manner that is deemed acceptable.
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> On its own, the $5 million appropriation contained in SB103 is within the framework provided in Section 6-21-6.1(C) of the NMFA Act. In combination with other proposed legislation requesting appropriations during the 2020 Regular Session, the anticipated requests for appropriations in FY2020 exceeds the 35 percent framework provided in Section 6-21-6.1(C), potentially reaching 48 percent. NMFA has concluded that this higher level of appropriations, if signed into law, will not materially impact the PPRF for FY2021, as the

large amount of capital outlay made available last year and anticipated again this year, coupled with the low interest rate environment, has decreased the demand for disadvantaged loans and other funding. However, there are long-term consequences with regularly breaching the statutory framework. The impacts of the appropriations can be mitigated through proper coordination with the Department of Finance and Administration.

NMFA uses the remaining 65 percent of GGRT to fund loans to disadvantaged communities at either a 0 percent or 2 percent interest rates depending on Median Household Income metrics. Nonetheless, in order to ensure adequate PPRF liquidity, NMFA limits below market interest rate loans in those years in which appropriations from the PPRF exceed the statutory framework.

DCA analysis explains the agency currently has over $63 million in capital improvements needed between FY21-25 ($18.7 million in FY21 alone). Currently, DCA has less than $1 million in the their operating budget for maintenance related line items. Additionally, DCA only receives $360 thousand annually from the Governmental Gross Receipts Tax (GGRT). This is significantly below the funding level for other state agencies who maintain their own facilities. For example, State Parks receives $5 million of GGRT to maintain its 34 state parks. Due to a lack of sufficient GGRT and operating budget for maintenance DCA is overly dependent on capital outlay funding. The Public Project Revolving Loan Fund (PPRF) has had a balance of over $12 million for the past few years. After the distributions to other eligible funds, the PPRF has had a balance; part of which DCA proposes to use to maintain existing DCA facilities.

DFA explains NMFA "projects its share of the GGRT is approximately $31 million per year of which 35 percent is for the Public Project Revolving Fund. In FY19, $7 million was available for the other funds which include Rural Infrastructure Revolving Loan Fund, the Solid Waste Facility Grant Fund, and the Drinking Water State Revolving Loan Fund. NMFA uses this capital base to make loans to qualified borrowers and then replenishes the fund by issuing tax-exempt, tax-subsidized, and taxable bonds that are secured by the loans.

Senate Bill 103 establishes the Cultural Affairs Facilities Infrastructure Fund with an appropriation of $5 million from the Public Projects Revolving Fund for the Department of Cultural Affairs. The Cultural Affairs Facilities Infrastructure Fund is not for loans, it is for capital and exhibit expenses approved by the NMFA oversight committee, the Department of Finance and Administration and finally, the Legislature."

DFA explains there could be additional costs to DCA associated with administering this new funding but that Cultural Affairs has an effective facilities management team that will be able to absorb these duties within current budget. DFA also explains this fund was originally discussed as part of DCA's FY21 budget request, but the department did not request additional operating budget authority or FTE to administer the funding.

SIGNIFICANT ISSUES

NMDA explains "the dedication by statute of GGRT to the PPRF is what has made the PPRF program what it is today. The PPRF has a reputation with national banking firms, investors, rating agencies and other knowledgeable parties as being among the most effective and best structured state infrastructure financing programs in the country."

> The PPRF senior and subordinate liens are rated AAA/AAA by Standard and Poor's and Aa1/Aa2 by Moody's – though a revised Moody's methodology which is to be implemented in 2020 appears to place both liens in position for upgrades. GGRT is a serious focus for both rating agencies. For the most recent PPRF bond ratings, Moody's issued a one-page press release in May 2019 in which GGRT was mentioned seven times. S&P issued a two-page rating report in which GGRT was mentioned nine times and specifically including the sentence "Trust estate revenues secure the senior-lien bonds and include the [NMFA's] 75 percent portion of statewide GGRT collections." The rating agencies monitor GGRT very closely, both in terms of bond debt service coverage and in terms of subsequent PPRF program liquidity.

DCA maintains 191 structures, including museums, historic sites, and support facilities. These facilities include 1.3 million square feet, over 1,000 acres, and 87 structures which are listed on the state or national historic registries. DCA facilities are not maintained by the General Services Division (GSD). Unique to DCA facilities are the specialized equipment needed to maintain historic sites, buildings, art, artifacts, exhibits and collections. For example climate-controlled facilities help ensure the preservation of irreplaceable collections of New Mexico's history and cultural patrimony and are more often being required in contractual commitments for exhibitions coming into the state's museums.

Cultural Affairs states that, due to a lack of secure, recurring funding, the agency is unable to maintain facilities versus responding to emergency maintenance issues. With stable, recurring funding DCA will be able to plan and complete vital infrastructure repairs to maintain facilities and protect the exhibits, collections, and historic sites it is tasked to preserve.

ADMINISTRATIVE IMPLICATIONS

NMFA states "appropriation requests pursuant to Section 6-26-6.1(C) are presented to the NMFA Oversight Committee each fall, but actual GGRT distribution for the year is not known until the following June. The appropriation contained in SB 103 would be made following the June 15th bond payment, replenishment of reserves and payment of administrative fees. Currently a reasonable estimate of the PPRF's FY2020 GGRT distribution is $33.5 million, 35 percent (approximately $11.725 million) of which is available for distribution pursuant to Section 6-21-6.1(C). SB 103 streamlines the recommendations for appropriation requests by providing that NMFA and DFA may coordinate the requests."

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 27 authorizes the New Mexico finance authority to make loans from the public project
revolving fund to certain entities for public projects as defined in Section 6-21-3 NMSA 1978.

HB47 Local Government Planning Fund contains a $2 million appropriation from the PPRF to the Local Government Planning Fund at the NMFA for the purposes of making grants to public bodies for planning and feasibility studies.

HB163 creates the Community Supplement Support Fund and amends 6-21-6.1 to make it eligible to receive an appropriation from the PPRF. Contains a $5 million appropriation from the PPRF in FY2021.

HB167 Wastewater System Financing contains a $1.8 million appropriation from the PPRF to the Wastewater Facility Construction Loan Fund at the NM Environment Department to serve as a state match for a federal Clean Water EPA capitalization grant.

SB69 Drinking Water System Financing contains a $2.5 million appropriation from the PPRF to the Drinking Water State Revolving Loan Fund at the NMFA to serve as a state match for a federal Drinking Water EPA capitalization grant.

TECHNICAL ISSUES

NMFA also explains that "for legal, reputational and practical reasons, there is little the State can do to step away from the 75 percent GGRT distribution to the PPRF each year given the history of legislative affirmation to bondholders that they can rely on the 75 percent distribution. GGRT can be levied on additional uses and users not now within the established order of GGRT payers – hospitals, for example – and these funds can be segregated from the 75 percent distribution; but, the 75 percent distribution on GGRT receipts generated from the established order must go to the PPRF each year so long as the PPRF has bonds outstanding. Importantly, the new fund contained in SB 103 and the $5 million appropriation do not impact bondholders."

ALTERNATIVES

According to NMFA, in the earlier years of the PPRF, NMFA issued bonds backed by the GGRT to fund the programs listed in 6-26-6.1(C). This alternative is available in those years in which the need for PPRF appropriation exceeds the 35 percent framework provided in statute.

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