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FISCAL IMPACT REPORT

SPONSOR	Sen. Diamond Brantley/Reps. Armstrong and Jaramillo	LAST UPDATED	
		ORIGINAL DATE	1/24/24
SHORT TITLE	T or C Water Lines	BILL NUMBER	Senate Bill 95/ec
		ANALYST	Hilla

APPROPRIATION* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
\$20,000.0		Nonrecurring	General fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Environment Department (NMED)
State Land Office (SLO)

Agency Analysis was Solicited but Not Received From

Department of Finance and Administration (DFA)
Department of Transportation (NMDOT)

SUMMARY

Synopsis of Senate Bill 95

Senate Bill 95 appropriates \$20 million from the general fund to the Department of Finance and Administration to plan, design, construct, replace, and improve water lines in Truth or Consequences in Sierra County in FY24 through FY28. Leaking water lines in Truth or Consequences are causing a loss of more than 20 million gallons of water per year, 43 percent of the city's total water.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

The appropriation of \$20 million contained in this bill is a nonrecurring expense to the general

fund. Any unexpended or unencumbered balance remaining at the end of FY28 shall revert to the general fund.

SIGNIFICANT ISSUES

According to a 2021 LFC Program Evaluation of State-Funded Water Projects, both state and federal governments play an ongoing role in funding capital improvements to water and wastewater systems. In 1988 and 1996, the federal government created the clean water state revolving fund and drinking water state revolving fund, with each state administering its own version of each fund according to federal rules and with annual grants from the U.S. Environmental Protection Agency and state matching dollars. The funds primarily offer low interest loans to wastewater and drinking water systems, with limited grant dollars, or “subsidy,” available each year and criteria to qualify for a subsidy. The revolving funds are intended to be self-perpetuating, and most states allocate most of their financial assistance for water and wastewater projects through these funds.

New Mexico is the Only State to Provide a Majority of Drinking Water and Wastewater Funding from its Own Loan and Grant Programs Rather than its Federally-Backed Revolving Funds

Rank	State	Total State Funding for Drinking Water and Wastewater Projects, 1988-2019 (in thousands)	Percent from State-Based Loan and Grant Programs	Percent from Federally-Backed Clean Water and Drinking Water State Revolving Funds
1	New Mexico	\$2,179,818	67%	33%
2	West Virginia	\$2,831,061	46%	54%
3	Maryland	\$5,970,111	46%	54%
4	Texas	\$17,522,755	44%	56%
5	Colorado	\$3,380,531	42%	58%
6	Wisconsin	\$5,783,485	37%	63%
7	Washington	\$4,486,283	36%	64%
8	Kentucky	\$3,052,105	35%	65%
9	Oregon	\$2,726,221	35%	65%
10	Alaska	\$1,378,690	33%	67%

Source: EPA NIMS data

New Mexico’s singular status in this area reflects policy choices by the Legislature and executive branch for the state to provide significant support to public water and wastewater systems in the form of legislative capital outlay and programs funded with earmarked severance tax bonds, including the water trust board, colonias infrastructure fund, and tribal infrastructure fund. These funds provide both generous, zero-interest loan terms and higher proportions of grant funding than revolving funds. They have historically outcompeted the revolving funds in attracting applicants for funding.

According to the same 2021 LFC evaluation, over a third of the grant money awarded to water projects from FY16 to FY20 was appropriated without an assessment of the local entity’s ability to take on debt, with \$31 million going to the state’s largest water systems. Local entities’ reliance on grant funding and hesitancy to raise rates and take on debt can limit the timely completion of projects and increase the risk that state investments will not result in public benefits. If managed effectively, most water and sewer utilities should have at least some capacity to undertake debt – even small systems. Rate structures that reflect the cost of

operations, maintenance, and existing debt and allow utilities to put money into reserve accounts to cover emergencies or future capital costs are foundational best practices of utility management.

Following the New Mexico Environment Department's agency analysis, Truth or Consequences has not submitted its 2023 annual financial audit and will not be eligible to receive legislative appropriations until its audit is finalized, submitted, reviewed, and made publicly available by the Office of the State Auditor.

PERFORMANCE IMPLICATIONS

NMED regulates public drinking water systems. Repair or replacement of failing infrastructure could result in a positive impact on NMED for their regulations of public water systems in Truth or Consequences.

The New Mexico State Land Office manages state trust lands in the Truth or Consequences area. Repair or replacement of failing infrastructure could result in a positive impact on SLO's ability to lease and utilize those lands.

ADMINISTRATIVE IMPLICATIONS

It is assumed that the Department of Finance and Administration will enter a Memorandum of Understanding between their local government division and the city of Truth or Consequences for disbursement of the appropriation.

NMED states that Truth or Consequences is on the legislative authorization list on House Bill 148 to be legislatively approved for Water Trust Board (WTB) Funding for the same project. Truth or Consequences applied in FY24 for \$16 million and awards will be made in May 2024.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 148 authorizes the New Mexico Finance Authority to make loans or grants from the water project fund for certain water projects, one of which is for water storage, conveyance and delivery project in Truth or Consequences.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If the bill is not enacted, Truth or Consequences is expected to receive funding from the Water Trust Board in May 2024 for the same project.

EH/al/ne