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FISCAL IMPACT REPORT

SPONSOR Muñoz **LAST UPDATED** _____
ORIGINAL DATE 1/29/2025
BILL
SHORT TITLE Water Project Fund Appropriation **NUMBER** Senate Bill 29
ANALYST Carswell

APPROPRIATION* (dollars in thousands)

| FY25 | FY26 | Recurring or Nonrecurring | Fund Affected |
|-------------|------|---------------------------|---------------|
| \$222,000.0 | | Nonrecurring | General Fund |

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 2

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Finance Authority (NMFA)

Office of the State Engineer (OSE)

SUMMARY

Synopsis of Choose an item.

Senate Bill 29 (SB29) appropriates \$222 million from the general fund to the water project fund for expenditure in FY25 and FY26 for projects authorized by the Legislature in the first session of the fifty-seventh Legislature.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The appropriation of \$222 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall not revert to the general fund.

SIGNIFICANT ISSUES

The Water Project Finance Act (72-4A-1 through 72-4A-11 NMSA 1978) established the water

project fund, a revenue source for grants and loans to qualified entities for water projects authorized by the Legislature. The annual funding available for the water projects comes from distributions from the water trust fund, historically about \$3.6 million annually, and a net 8.1 percent of senior severance tax bond capacity, both of which capitalize the water project fund. Every year, the Water Trust Board recommends and the Legislature authorizes a list of water projects that may receive support from the water project fund that year, with final awards made by the Water Trust Board after legislative authorization.

During the 2024 Session, the Legislature authorized expenditures from the water project fund (WPF) for 65 projects statewide, and the State Board of Finance issued the severance tax notes in June. Additionally, the Legislature appropriated an additional \$50 million to the water project fund in 2024 to close the gap between available funds and applications for funding and \$18 million to address cost-overruns for previously funded projects. As of June 2024, the Water Trust Board and the New Mexico Finance Authority (NMFA) had awarded funding to 44 new projects for 2024 totaling \$135.9 million and had awarded \$1.2 million of the 2024 cost overrun funding. The board kept \$30.5 million of its 2024 funds available for a second round of awards to projects that were highly ranked but did not meet regulatory requirements for funding, such as audit or environmental compliance. In August 2024, the board awarded the remaining funds to 10 projects. Funding to 2024 projects totaled about \$167 million.

Strong state revenues have significantly increased annual distributions to earmarked funds, including the water project fund. Even so, demand for Water Trust Board funding has far outpaced available funds the last two cycles. This fall, the Water Trust Board received 84 applications for the 2025 cycle totaling \$256.4 million. NMFA expects \$157.8 million to be available for these projects from severance tax earmarks and the annual water trust fund distribution to the water project fund.

The appropriation in SB29 would more than close the roughly \$99 million gap between applications for 2025 funding and available funds. It would thus allow all more projects to be funded than would be possible absent additional appropriations to the water project fund. However, the language in the bill restricts expenditures to FY25 and FY26 for projects authorized in 2025, meaning more than \$130 million could become stranded in the water project fund, with the New Mexico Finance Authority and grantees appearing to lack authority to expend those funds for future projects (see technical issues).

LFC evaluations have found the Water Trust Board is more successful at fully funding and completing community water projects than capital outlay, where piecemeal funding and a lack of consistent vetting contributes to delayed spending and delayed project completion. The findings support additional appropriations to the Water Trust Board as a promising strategy to meet the statewide need for water infrastructure improvements. A nearly identical appropriation to that in SB29 is included in the introduced version of House Bill 2 (see technical issues).

ADMINISTRATIVE IMPLICATIONS

The Water Project Finance Act requires legislative approval of projects supported by the water project fund. The Water Trust Board's application cycle is structured around this requirement, with an initial application and authorization recommendation completed in the fall prior to a legislative session and final funding awards made after session and after potential grantees

submit supplemental application materials to the board demonstrating readiness and compliance with program rules and regulations. The projects advanced to the Legislature for approval in 2025 thus include only those that submitted applications in 2024.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The appropriation in SB29 relates to and partially duplicates a special appropriation in the introduced version of House Bill 2 (HB2) but with meaningful differences in the language that would impact how funds could be used. SB29 restricts expenditures to FY25 and FY26 for projects authorized by the Legislature in 2025. The \$222 million appropriation in HB2 would be available to water projects authorized by the Legislature in both 2025 and 2026, meaning any amount not used this year would be available for next year’s Water Trust Board funding cycle.

The implications of these differences are described in further detail in the technical issues sections of this fiscal impact report.

TECHNICAL ISSUES

SB29 restriction of the expenditure period for the appropriated funds to FY25 and FY26 and restriction eligible uses of the appropriation to projects authorized in the first session of the fifty-seventh Legislature means only projects in the 2025 water project fund authorization bill could benefit from the appropriation. NMFA notes, “as written the bill does not include funding for any future projects beyond those authorized by the Legislature in this legislative session.” A similar funding gap is anticipated in 2026.

The \$222 million appropriation in SB29 combined with the statutory earmark distribution from severance tax bond capacity to the water project fund would total roughly \$380 million, significantly more than the \$250 million requested for 2025 projects. NMFA would lack clear authority to award and expend any funds above those needed for 2025 projects, resulting in a need for additional action by the Legislature in 2026 to ensure funds aren’t stranded. Additionally, projects are typically given four years to expend Water Trust Board awards. The one-year expenditure period authorized by SB29 may limit the utility of the funds.

The related \$222 million appropriation in HB2 provides authority for NMFA to use the funds to close the Water Trust Board’s funding gap in both the 2025 and 2026 award cycles. It does not restrict the expenditure period for the appropriation, meaning the normal four-year period would apply. The nonrecurring expense to the general fund would occur in FY25 under SB29 and in FY26 under HB2.

Finally, NMFA notes general fund appropriations to the water project fund are typically transferred through the Department of Finance and Administration and not directly appropriated to NMFA.

ALTERNATIVES

The Legislature could pass HB2 with the \$222 million special appropriations to the water project fund.

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