DRAFT FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/10
SPONSOR Campos **LAST UPDATED** 02/10/10 **HB** 98/aHBIC/aHTRC

SHORT TITLE RETA as Qualified Public Project Fund Entity **SB**

ANALYST White

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	**FY11**	**FY12**		
See Narrative			Recurring	Public Project Revolving Fund
See Narrative			Recurring	RETA Operating Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Renewable Energy Transmission Authority (RETA)
Energy, Minerals, and Natural Resources Department (EMNRD)
New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 98 eliminates business information from being considered confidential proprietary information. The amendment also defines “proprietary confidential” information as including “power purchase agreements, costs of production, costs of transmission, transmission service agreements, credit reviews, detailed power models and financing statements.”

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to House Bill 98 permits the Renewable Energy Transmission Authority (RETA) to maintain separate accounts within the renewable energy transmission bonding fund.

Synopsis of Original Bill

House Bill 98 amends various sections of the New Mexico Finance Authority (NMFA) Act allowing NMFA to purchase and or issue Renewable Energy Transmission Authority (RETA) bonds through the Public Project Revolving Fund (PPRF).

The proposed legislation amends the New Mexico Renewable Energy Transmission Act allowing RETA bonds to be issued “above, below, or at par” increasing their marketability.

House Bill 98 further amends the Renewable Energy Transmission Act to allow RETA to hold proprietary, technical or business information confidential and exempts such information from the New Mexico Inspection of Public Records Act (IPRA).

FISCAL IMPLICATIONS

House Bill 98 has no direct general fund impact. Although RETA has been granted special general fund appropriations by the legislature in the past, most recently $500,000 during the 2009 regular session, current agency budget projections assume no general fund appropriations will be needed in FY11. Each time the authority issues bonds for a renewable energy project or entity it receives an administrative fee. Therefore the more projects the authority is able to finance, the more self-sustaining it can eventually become.

By allowing RETA bonds to be capitalized by the PPRF they would take away, although marginally at first, from existing PPRF capacity. The RETA bonds would then be indirectly secured by governmental gross receipts taxes (GGRT), which are currently the main revenue stream securing PPRF bonds. Increasing the amount of debt secured by this revenue stream has the potential to be looked upon negatively by bond rating agencies and could result in higher debt service costs to the PPRF. These costs would have to be at least in part passed through to local governments and municipalities who rely on PPRF loans for a variety of public infrastructure needs.

SIGNIFICANT ISSUES

Allowing NMFA to issue bonds on RETA’s behalf is a cost effective measure because it does not necessitate the need to recreate complex bond expertise, already present at NMFA, within RETA. House Bill 98 would also save money by allowing RETA to issue its bonds “above, below, or at par” which should increase their marketability and possibly decrease debt service costs.

However, RETA was originally created to issue bonds for renewable energy transmission lines. If RETA is going to have NMFA issue bonds on its behalf, then it could be looked upon as redundant for RETA to remain a quasi-governmental agency outside of direct legislative budgetary oversight. In its analysis, RETA states in response to such concerns that “(a)uthorizing RETA as an eligible entity reduces any duplication by the NMFA and RETA. RETA’s role will be to continue its efforts in identifying and coordinating the transmission and storage efforts for renewable projects in New Mexico while partnering with the NMFA to utilize its vast financial knowledge to purchase the bonds.”

In December, 2009 the RETA board approved an authorizing resolution for a bond issuance not to exceed $85 million. These bonds are expected to be secured by a 30 year purchase power agreement (PPA) with Arizona Public Service Company (APS). The agreement stipulates that APS is obligated to purchase power generated from the High Lonesome Wind Ranch facility, south of Willard, NM, for the life of the agreement. PPAs are used to secure bond financing for utility projects all over the country, however given the current economic environment counterparty risk (the risk that a contractual counterparty will default) could be a concern. It is currently unknown what the cost to APS would be to terminate the PPA, however if they were to terminate the contract the bonds issued by RETA would most likely go into default. Also the PPA, as it was provided to the LFC, is an agreement between APS and High Lonesome Wind Ranch LLC, not RETA. RETA has never issued any bonds before, and therefore would most likely receive a low rating from ratings agencies necessitating them to pay high interest payments. Allowing the bonds to be purchased or issued through the PPRF could mitigate this concern.

House Bill 98 would also exempt certain information held by the authority from the New Mexico IPRA. The authority notes that in order for it to be successful, and for possible national security reasons, they must have the ability to keep proprietary information confidential. In its analysis the agency notes that the confidentiality provisions in the proposed legislation are similar to those used in other statutes such as those of the New Mexico Lottery Authority, NMFA (SWEDFA only), Economic Development Department, Interstate Insurance Product Regulation Commission, and the Economic Development Corporation.

The HBIC amendment to House Bill 98 would allow RETA to maintain separate accounts within the renewable energy transmission bonding fund. This provision would grant RETA the flexibility to ensure that money pledged for the repayment of bonds for certain individual projects can be segregated from other monies within the fund. Segregation of these monies could serve as a benefit toward the creditworthiness of individual project bonds.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill were not enacted RETA bonds could not be capitalized by the PPRF program. Furthermore RETA bonds could not be sold below par thus limiting their marketability. Lastly the agency would not be exempt in certain cases from the New Mexico IPRA.

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