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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/10

SPONSOR Ingle LAST UPDATED _____ HB _____

SHORT TITLE Small Counties Assistance for Curry County SB 224

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
\$140.0		Nonrecurring*	Small Counties Assistance Fund
	(140.0)	Nonrecurring*	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Impact

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Finance and Administration (DFA)

No Response From

Attorney General Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 224 proposes to appropriate \$140 thousand from the small counties assistance fund to the Department of Finance and Administration for distribution in fiscal year 2010 to Curry County in lieu of the distribution that would have occurred had the county continued to be a qualifying county pursuant to the Small Counties Assistance Act. Any unexpended or unencumbered balance remaining at the end of FY10 shall revert to the small counties assistance fund.

The bill carries an emergency clause.

FISCAL IMPLICATIONS

The Small Counties Assistance Act established a fund in the state treasury that distributes amounts to counties that qualify under population and property valuation thresholds. According

to DFA, Curry County did not realize that it would fail to meet the criteria and budgeted an expected \$140 thousand distribution in its FY10 operating budget. This bill proposes to provide the funding that the county anticipated it would receive but did not.

Distributions are made on or before September 30 of each year. The balance remaining in the fund after distributions reverts to the general fund. According to DFA, FY10 distributions totaled \$5.5 million and \$4 million reverted to the general fund on September 25, 2009.

SB224 specifies that the \$140 thousand would be appropriated from the small counties assistance fund per an emergency clause.

General fund reversions can only be reversed if an error is identified during the audit process. Therefore, \$140 thousand general fund could not go back into the small counties assistance fund to fulfill this distribution request to Curry County.

Per DFA, as of February 1, 2010, the fund balance is \$3.9 million, all of which is obligated toward making the FY11 distribution. Thus, if \$140 thousand is appropriated from the fund, it will have to be made from the FY11 obligated balance. There is no unobligated or unreserved cash balance.

Thus, this \$140 thousand distribution from the reserved fund balance would have one of two fiscal impacts:

1. If the revenues are less than anticipated, the final distributions to the qualifying small counties will be proportionally reduced; or
2. Most likely, the FY11 total revenues will be more than sufficient. In this case, the ultimate fiscal impact of the bill will be to reduce the amount remaining after the FY11 distributions and reverting to the general fund in FY11 by \$140 thousand.

Because the bill does not seek to change the statute's population restrictions so that Curry County would qualify for future distributions, the appropriation would be non-recurring. However, if the county seeks additional exemptions, qualifies with a lower population count, or seeks a change in statute that would qualify the county for future distributions, the impact would be recurring.

SIGNIFICANT ISSUES

TRD provides the following background informationThe Small Counties Assistance Fund is governed by Section 4-61-3 NMSA 1978. This statute directs DFA to certify population in the following manner: "the demographer shall certify in writing to the department of finance and administration the population of the state and of each county as of June 30 of the year." The statute goes on to define "demographer" as: "the Bureau of Business and Economic Research (BBER) at the University of New Mexico." The population figure used to calculate distributions last year was 48,005 for Curry County, and no county with a population greater than 48,000 receives a distribution under the Small Counties Assistance Act."

DFA points out that this "bill may highlight the problem of any distribution formula with a "cliff". In this case, Curry County budgeted the \$140 thousand in its FY10 approved budget, not realizing that the formula would shortly remove the County from the list of entities eligible for a small counties award."

According to DFA, Curry County received \$140 thousand in the FY09 distribution and would have received \$129 thousand for FY10 if it had remained eligible.

TECHNICAL ISSUES

Curry County does not qualify for a distribution under the statutory restrictions. It is unclear how a distribution to the county can be made from the fund. The AGO office does not analyze appropriation bills.

ALTERNATIVES

The county could request an appropriation directly from the general fund.

The county could request an emergency loan from the State Board of Finance.

The county could reduce expenditures by \$140 thousand, although this alternative would most likely be a hardship given more than half of FY10 has passed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Curry County will be short \$140 thousand for its FY10 operating budget. This amount will need to be replaced in another fashion, or budget reductions will have to be made up to \$140 thousand by fiscal year-end, or a combination alternative funding and budget reductions will need to occur.

POSSIBLE QUESTIONS

- 1 What will happen if the county does not receive this appropriation?
2. Didn't the county know it was nearing the qualifying thresholds?
3. How does the county plan on addressing the probable budget shortfall due to disqualification for distributions in future years?

MA/svb