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FISCAL IMPACT REPORT

SPONSOR Lundstrom ORIGINAL DATE 02/23/11
LAST UPDATED _____ HB 339
SHORT TITLE NM Rural Development Response Council
Approp. SB _____
ANALYST Lucero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	\$200.0	Recurring	Public Project Revolving Fund

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

House Bill 339 appropriates two hundred thousand dollars (\$200,000) from the public project revolving fund to the Economic Development Department to support the New Mexico Rural Development Response Council (NMRDRC).

FISCAL IMPLICATIONS

The appropriation of \$200,000 contained in this bill is a recurring expense to the public project revolving fund. Any unexpended or unencumbered balance remaining at the end of 2012 shall revert to the public project revolving fund.

According to the New Mexico Finance Authority (NMFA), the bill appropriates cash balances from the public project revolving fund for purposes inconsistent with the New Mexico Finance Authority Act.

SIGNIFICANT ISSUES

The New Mexico Finance Authority submits the following observation:

Section 6-21-2(A) declared that the Authority was created because there were necessary state and local capital improvement and infrastructure needs that could not be met with existing

capital financing methods and funding sources, and as stated in 6-21-2(B), to coordinate the planning and financing of state and local public projects, to provide for long-term planning and assessment of state and local capital needs and to improve cooperation among the executive and legislative branches of state government and local governments in financing public projects. Appropriating the cash balances of the public project revolving fund, which is not within the enabling legislation of the Authority, to support the New Mexico rural development response council will duplicate and conflict with the intent of the Authority's creation and purpose.

Section 6-21-4(A) defines the Authority as public body politic and corporate, separate and apart from the state, constituting a governmental instrumentality. Section 6-21-4(J) states that “[t]he authority shall not be subject to the supervision or control of any other board, bureau, department or agency of the state except as specifically provided in the New Mexico Finance Authority Act. No use of the terms ‘state agency’ or ‘instrumentality’ in any other law of the state shall be deemed to refer to the authority unless the authority is specifically referred to in the law.” The Authority's public functions are to “coordinate the planning and financing of state and local public projects, to provide for long-term planning and financing of state and local public projects, to provide for long-term planning and assessment of state and local capital needs and to improve cooperation among the executive and legislative branches of state government and local governments in financing of public projects.” NMSA 1978, Section 6-21-(B). NMSA 1978, Section 6-21-5 grants the authority “all powers necessary and appropriate,” including authority “to do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the New Mexico Finance Authority Act. The Authority maintains its funds separately from all other state funds, has the authority to issue bonds without co-signature by the Treasurer or other state officials, and is, by its enabling legislation, expressly independent of the control of any other state agency, board or commission.

As a creature of statute, the Authority can only act on those matters which are within the scope of authority delegated to it. See attached Attorney General Letter Opinion dated January 27, 2011. The bill's provisions would transfer monies to support the New Mexico rural development response council from balances of the public project revolving fund for purposes which are not within the Authority's enabling legislation.

While the legislature has retained authority to appropriate money from the PPRF as provided under NMSA 1978, Sections 6-21-6(D) and 6-21-6.1(C), the appropriation has to be for the purposes delineated in the Authority's enabling legislation under Section 6-21-2. It is not clear from the legislation what is meant by “rural development response council, although that term is not a “public project” as defined under the New Mexico Finance Authority Act, NMSA 1978 Section 6-21-3(E). Public project is defined, in pertinent part, as “the acquisition, construction, improvement, alteration or reconstruction of assets of a long-term capital nature by a qualified entity. See attached Attorney General Letter Opinion dated January 27, 2011.

However, according to the website of The New Mexico Rural Development Response Council available services include:

1. COMMUNITY ASSESSMENT - Community visits and assessments to identify target industries that would have a high likelihood of success in that community.
2. COMMUNITY PROFILE DEVELOPMENT - Community profile development through

- data collection on the community’s current status on 10 economic variable indicators.
3. POINT OF CONTACT FOR INFORMATION - Provide information to communities, as requested.
 4. TECHNICAL ASSISTANCE - Review funding applications for communities and provide assistance in identifying funding resources, and other areas as requested.
 5. SUPPORT FOR COMMUNITY DEVELOPMENT PROJECTS - Provide letter of support for community economic development funding applications. Assist in project review.

Which seems consistent with Section 6-21-2 (B) NMSA 1978 which states that “(i)t is the purpose of the New Mexico Finance Authority Act to create a governmental instrumentality to coordinate the planning and financing of state and local public projects, to provide for long-term planning and assessment of state and local capital needs and to improve cooperation among the executive and legislative branches of state government and local governments in financing public projects.”

The purposes of the bill and the enabling statute of NMFA seem to be not as mutually exclusive as NMFA purports them to be. NMRDRC helps local communities coordinate development projects including community assessment, technical assistance, identifying community development potential, and helps with project review.

PERFORMANCE IMPLICATIONS

This legislation has the potential to enhance the capacity of individuals and ultimately enhance the opportunities for rural communities to access capital from the public project revolving fund.

This legislation does not directly enhance the performance implications for EDD.

ADMINISTRATIVE IMPLICATIONS

The Economic Development Department may incur a minimal increased administrative cost to administer and oversee the appropriation.

RELATIONSHIP

Relates to HB 112 “Broadband Access & Youth Entrepreneurship”

OTHER SUBSTANTIVE ISSUES

The Rural Development Response Council applies for and is granted monies to engage in rural development projects of various kinds. Our services differ from year to year depending on the guidelines of our grants.

Some of the services we have offered and continue to offer include:

6. COMMUNITY ASSESSMENT - Community visits and assessments to identify target industries that would have a high likelihood of success in that community.
7. COMMUNITY PROFILE DEVELOPMENT - Community profile development through data collection on the community’s current status on 10 economic variable indicators.
8. POINT OF CONTACT FOR INFORMATION - Provide information to communities, as

requested.

9. TECHNICAL ASSISTANCE - Review funding applications for communities and provide assistance in identifying funding resources, and other areas as requested.
10. SUPPORT FOR COMMUNITY DEVELOPMENT PROJECTS - Provide letter of support for community economic development funding applications. Assist in project review.

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