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## FISCAL IMPACT REPORT

SPONSOR Papen ORIGINAL DATE 1/22/14  
 LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Transfer Regional Housing Authority Oversight SB 32

ANALYST Daly

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$250.0	\$250.0	\$500.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB 28 and SB 11.

Duplicates HB 29.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance & Administration (DFA)

Mortgage Finance Authority (MFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 32, endorsed by the Mortgage Finance Authority Act Oversight Committee, transfers oversight responsibilities as to regional housing authorities from the MFA to the DFA. The bill's effective date is July 1, 2014.

### FISCAL IMPLICATIONS

DFA reports that SB 32 would require DFA to increase its operational budget to ensure that expenditures are covered related to responsibilities of training (recruitment, financial management and internal controls), technical assistance (strategic plans and construction pre-development), legal (housing attorney), direct and indirect costs (oversight) and FTE to carry out the proposed activities. It has estimated the fiscal impact to be \$250,000 in each fiscal year.

SB 32 (and its duplicate HB 29) appropriates this same amount of general funds to DFA for expenditure in FY 15 and subsequent fiscal years to fund oversight of regional housing authorities by MFA. If SB 32 (or its duplicate HB 29) is enacted, that appropriation should remain with DFA to fund its own performance of these oversight functions.

## **SIGNIFICANT ISSUES**

SB 32 assigns oversight duties and responsibilities of regional housing authorities to DFA. Currently, those duties are assigned to MFA, which as an instrumentality of the state of New Mexico receives no operating funds from the state. As a result, MFA explains, MFA has had to rely on appropriations to DFA, who then enters into a joint powers agreement with MFA, to fund its oversight responsibilities under the Regional Housing Law. In some years, MFA reports that DFA has received no appropriation to fund MFA's performance of oversight of regional housing authorities, forcing MFA to support an unfunded mandate with its own limited resources and to scale back important support functions, such as technical assistance.

This bill transfers regional housing authority oversight duties and responsibilities to DFA, a state agency that receives annual operating funds directly from the state, which would provide a more direct mechanism to fund these oversight activities in the event that the state legislature does not approve HB 28 or SB 11, which provide recurring appropriations to DFA to fund MFA's performance of these oversight responsibilities.

MFA summarizes the scope and significance of its oversight duties under the Regional Housing Law:

These duties include review and/or approval of: regional housing authority commissioners, agreements valued at \$100,000 or more, transfer or sale of property valued at \$100,000 or more, annual operating budgets, annual audits and annual reports. These functions would be transferred to the Department of Finance and Administration under HB29.

As federal funding for housing authorities declines, many small local housing authorities are consolidating under the state's regional housing authorities, which are rapidly becoming the sole housing service providers in some parts of the state. The need for oversight, technical assistance and capacity building for the regional housing authorities is therefore expected to increase.

One of the state's three housing authorities—the Northern Regional Housing Authority—is in the early stages of development. Oversight and funding for technical assistance and capacity building is critical for the start-up stage of the organization.

DFA believes MFA has proved expertise in the housing industry by providing expertise in more than 30 state and federal programs related to housing and other related services to low-to moderate income New Mexicans. According to information on its 2012 website, MFA has 65 FTE and has received \$243 million in dollars through bond sales and flow-through dollars. Since 2007, MFA has received inconsistent allocations of funds to carry out certain responsibilities, duties and provisions of the regional housing law. In 1997, MFA became the state government's designated housing authority, and since 2007 has been charged with providing oversight for regional housing authorities and has received inconsistent allocations of state funds to provide those services.

DFA cautions that transferring of oversight responsibilities to DFA would significantly increase DFA's workload. DFA does not have the capacity or expertise and would have to hire and/or train staff in regional housing laws including federal programs that are not run by the DFA, such as Section 8, homeownership counseling, weatherization, and new housing development. DFA would also have to create regulations for oversight responsibilities; produce updates and report to other regulatory agencies; report on new regional housing board appointees to the Governor's office; review, recommend and approve board and commissioners; review, recommend and approve articles of incorporations for non-profits; approve all contracts over \$100,000; transfer, sell and liquidate any real personal property over \$100,000; review operating fiscal budgets; and recommend corrective actions for any qualified audits. DFA staff would also need to be out of the office on a regular basis to conduct technical assistance and to assist in implementation of community application intake system, which may interfere with performance of its other duties and responsibilities.

### **CONFLICT, DUPLICATION**

HB 28 and SB 11 conflict with this bill by appropriating general fund monies to DFA to fund regional housing authority oversight activities by MFA.

HB 29 duplicates this bill.

### **OTHER SUBSTANTIVE ISSUES**

MFA reports there have been no incidences of fraud or mismanagement by the regional housing authorities during the time that MFA has provided oversight. Such oversight should continue to prevent such situations as long as regional housing authorities continue to exist, and as New Mexico's housing finance agency, MFA asserts it is well equipped to oversee the state's regional housing authorities.

### **ALTERNATIVES**

One alternative is passage of HB 28 or SB 11, which provide a recurring appropriation of \$250,000 from the general fund for fiscal year 2015 and subsequent fiscal years to DFA to fund MFA's performance of oversight duties as to the regional housing authorities

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Failure to pass SB 11 or SB 32 (or their duplicates) may place at risk oversight of the regional housing authorities. MFA reports that the lack of oversight prior to the legislation in 2009 resulted in improper spending of \$5 million in bond proceeds by a then-existing regional housing authority. A state-funded study, *New Mexico Regional Housing Authority Assessment* (2006), found that oversight, technical assistance, and capacity building were critically needed.

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