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## FISCAL IMPACT REPORT

**SPONSOR** Martinez, R./ Rodella      **ORIGINAL DATE** 1/22/18  
**LAST UPDATED** 2/14/18      **HB** \_\_\_\_\_

**SHORT TITLE** Wastewater Project Funding Eligibility      **SB** 40/aHBIC

**ANALYST** Jorgensen

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

|              | FY18 | FY19 | FY20 | 3 Year<br>Total Cost | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| <b>Total</b> | NFI  | NFI  | NFI  | NFI                  | Recurring                    | CWSRF            |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 66

### SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)

### SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee Amendment to Senate Bill 40 includes language specifying that eligible wastewater projects and borrowers are those that qualify under the provisions of the federal Clean Water Act as of January 1, 2018. This language is included in HB66 as well.

Synopsis of Bill

Senate Bill 40 (SB40) amends the Wastewater Facility Construction Loan Act (WFCLA) to reflect changes made to the federal Clean Water Act (CWA). SB40 will align the definitions of “qualified borrower” and “eligible projects” with the CWA. The bill will also change the threshold for a zero percent interest loan.

SB40 aligns the WFCLA with recent amendments to the CWA. SB40 adds definitions for “eligible project” and “qualified borrower,” alphabetizes definitions and makes conforming changes. The eligible project definition encompasses projects including wastewater facilities, non-point source water pollution control projects, and watershed projects that meet the criteria of the CWA. The qualified borrower definition provides that any creditworthy borrower eligible pursuant to the CWA (see Attachment 1) may be eligible for CWSRF funding.

The definitions of “eligible project” and “qualified borrower” both reference the CWA and do not attempt to provide an exhaustive list of either. This is done to make the program as flexible as possible to accommodate a wide range of projects while staying within the confines of applicable federal law.

SB40 changes the criteria used to determine if a local authority is eligible for a zero (0%) percent interest rate for a CWSRF loan. Proposed criteria include the use of the local authority’s per capita income (PCI) in place of median household income and user rate analysis as a percentage of income. Use of PCI is proposed because an analysis of census data shows PCI has a lower margin of error and data are available for more communities. The new calculation will be a more accurate portrayal of the local authority’s financial situation and will align with industry standards. Accordingly, to qualify for a zero (0%) percent loan, a local authority must have a PCI less than  $\frac{3}{4}$  of the State PCI and average wastewater utility cost greater than 1.82 percent of the local authority’s PCI.

According to NMED, adoption of SB 40 may increase the number and diversity of applicants for CWSRF funding. This may in turn lead to increased utilization of the fund.

### **FISCAL IMPLICATIONS**

NMED did not report any increased costs to the agency as a result of enactment of the provisions of SB40.

### **SIGNIFICANT ISSUES**

As of December, 2017, NMED reported an unobligated balance in the CWSRF of \$83.5 million. According to NMED, Increased numbers of eligible projects and borrowers will provide for expanded opportunities for the use of the fund and potentially result in higher utilization of the resources available.

Expanding the qualified borrower definition may help NMED make more loans out of the CWSRF as non-government entities will be eligible for funding awards. For example, NMED states:

A CWSRF loan may be provided to any borrower for projects to reuse the energy content of wastewater. This would include privately owned combined heat and power systems that generate energy from wastewater. However, any applications submitted by privately owned system owners will be thoroughly scrutinized on a case by case basis to assure compliance with both EPA guidance and the Anti-Donation Clause with the understanding that loans cannot be executed if they will result in an Anti-Donation Clause violation.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB40 duplicates HB66.

CJ/jle/al