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F I S C A L   I M P A C T   R E P O R T

SPONSOR Padilla **ORIGINAL DATE** 1/27/2021
LAST UPDATED **HB**

SHORT TITLE Public Project Revolving Fund Appropriations **SB** 70

ANALYST Olson/Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
	$2,500.0	Nonrecurring	Drinking Water State Revolving Fund
	$2,000.0	Nonrecurring	Local Government Planning Fund
	$1,800.0	Nonrecurring	Wastewater Facility Construction Loan Fund
	$5,000.0	Nonrecurring	Cultural Affairs Facilities Infrastructure Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
($11,300.0)			Nonrecurring	Public Project Revolving Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB88

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Finance Authority (NMFA)
New Mexico Environment Department (NMED)
Energy, Mineral, and Natural Resources Department (EMNRD)
Office of the State Engineer (OSE)
Department of Cultural Affairs (DCA)

SUMMARY

Synopsis of Bill

Senate Bill 70, endorsed by the New Mexico Finance Authority Oversight Committee, appropriates $11.3 million from the public project revolving fund (PPRF) administered by the New Mexico Finance Authority (NMFA). The bill authorizes the funds to support four statutorily created programs, including $2.5 million to the drinking water state revolving loan fund (DWSRF), $2 million to the local government planning fund (LGPF), $1.8 million to the wastewater facility construction loan fund, also knowns as the clean water state revolving loan fund (CWSRF), and $5 million to the cultural affairs facilities infrastructure fund (CAFIF).

The effective date of the bill is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The $2.5 million to DWSRF administered by New Mexico Environment Department (NMED) provides a 20 percent state match to a federal Environmental Protection Agency (EPA) capitalization grant estimated at $11 million. A portion of the federal funds is used by NMED's Drinking Water Bureau for technical activities and NMFA for administrative expenses.

The $2 million to LGPF administered by NMFA allows for grants to qualified entities to evaluate and estimate the most feasible costs or alternatives for infrastructure, water or wastewater public projects, water conservation plans, economic development plans, or energy audits. The bill allows for reimbursement of administrative costs incurred by NMFA.

The $1.8 million to CWSRF, administered by NMED, provides a 20 percent state match to a federal capitalization grant estimated at $9 million as provided by the Clean Water Act.

The $5 million to CAFIF administered by the Department of Cultural Affairs (DCA) provides funds to address a backlog of capital improvements totaling approximately $66.5 million for museums and exhibits statewide.

The NMFA reports the appropriations identified within the bill are contemplated uses and are within the 35 percent framework allowed in the NMFA Act (Section 6-21-1 et seq) and will not impact bondholders. The NMFA received $33.75 million from governmental gross receipts tax (GGRT) in FY2020, however, NMFA reports GGRT receipts are trending lower for FY2021, estimated at a $32 million distribution for FY2022. The $11.3 million appropriation in the bill would be available following the June 15th bond payment, replenishment of reserves, and payment of administrative fees.

Note: The table above assumes the $11.3 million will be transferred from the PPRF to the various other funds in FY21 because of the effective date of the bill. The bill, however, authorizes expenditure of the funds in FY22.

Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the PPRF.

SIGNIFICANT ISSUES

In past years, multiple bills making appropriations from the PPRF for individual funds have been introduced. This legislative year, the NMFA Oversight Committee endorsed an omnibus bill to benefit four eligible funds contained in this bill.

The New Mexico Drinking Water State Revolving Loan Fund Act was enacted by the 1997 Legislature in support of the 1996 amendments to the federal Safe Drinking Water Act. The purpose of the Act is to provide local entities low-cost financial assistance for drinking water systems construction, rehabilitation, and compliance of NMED and NMFA primary drinking water regulations intended to protect drinking water quality and public health. Recent amendments to the Act related to disadvantaged community assistance prompted a review of the DWSRLF loan management policies. In June 2019, the policies were amended to incorporate simplified and broadened affordability criteria and enhanced loan terms, designed to increase access for small and disadvantaged communities. Since 1997, the state has received $230.6 million in federal awards, matched by state funds totaling $43.2 million. As of December 2020, the NMFA has made 149 loans totaling $223.4 million and has approved an additional 19 loans totaling $35.9 million. Of the total capitalization, federal funds totaling $70.1 million has been used by NMED and NMFA to pay for costs related to technical activities and administering the program.

The LGPF administered by NMFA is a grant program for eligible entities capped at $50 thousand per planning document and a limit of $100 thousand per entity in a two-year period. The NMFA rules and policies allow for additional funding consideration if applicants are facing economic decline and for those seeking planning documents for emergency projects, economic development plans, and Metropolitan Redevelopment Plans. Grants to qualified entities are determined using a sliding scale primarily based on the applicant's median household income and relative rates charged for water and wastewater services. Since 2002, NMFA closed 327 grants totaling approximately $13 million. NMFA has approved an additional 41 grants totaling nearly $2 million that are awaiting completion of the planning document prior to finalizing the grant agreement.

In 2012, the Legislature broadened the use of the LGPF and eliminated repayment of the grants upon the successful funding of the project planned with LGPF monies. According to NMFA, the program has experienced increased activity since the Legislature's changes. In 2014, the Water Trust Board amended its policies to increase application standards for infrastructure funding by requiring applicants to submit completed planning documents. According to NMFA, many of the applicants to the Water Trust Board do not have the funds to pay for planning and must apply to the LGPF to complete the required planning documents.

The CWSRF was created by Congress in 1987. The NMED reports the CWSRF funds will provide for low-interest loans or combined grant/loan funding to eligible small and large communities for wastewater and stormwater quality improvement projects statewide. Eligible projects include wastewater facility projects, water pollution control projects, and watershed projects that meet the Clean Water Act. To date, the CWSRF has provided $481 million in loans during the 34-year lifespan of the program. Repayments are added to the CWSRF and made available for subsequent loans.

The $5 million appropriation to the CAFIF will allow DCA to plan and complete infrastructure repairs to maintain facilities and to preserve exhibits, collections, and historic sites statewide. The DCA maintains 191 structures, over 1.3 million square feet over 1,000 acres. Of the structures, 87 are listed on the state or national historic registries. DCA reports more than $66.5 million for capital improvements are needed between FY2022-2026, with $13.2 million needed in FY2022. The first appropriation to the CAFIF occurred in FY2021 totaling $5 million. DCA also receives a governmental gross receipt tax (GGRT) distribution, totaling approximately $280 thousand in FY2020. Other than GGRT and the CAFIF, the agency is dependent on state capital funding for the majority of repair and maintenance needs.

OTHER SUBSTANTIVE ISSUES

The NMFA states the following:

> "The PPRF has achieved an AAA/Aa1 senior lien bond rating and an AAA/Aa2 subordinate lien bond rating by effectively structuring underlying PPRF loans and utilizing legislative and strategic credit enhancements. The key PPRF credit enhancement is the 75 percent share of GGRT received by the PPRF pursuant to Section 7-1-6.38(A) of the Tax Administration Act. Funded indentured reserve accounts in the form of the NMFA's Senior Lien Common Debt Service Reserve Fund ("CDSRF") and Subordinate Lien Supplemental Credit Reserve Fund ("SCRF") are the visible strategic credit enhancements.
>
> The PPRF has a legal obligation to make all PPRF debt service payments when due in December and June of each year. While each fiscal year, all PPRF loan revenues and all Governmental Gross Receipts Tax ("GGRT") disbursements are legally dedicated to bond debt service of PPRF bonds and held in a trust bank account until all bond debt service payments are made for the fiscal year, concluding on June 15th. After June 15th, any excess loan revenues and available GGRT funds are available to be designated for one of three purposes in ascending level of legal availability: (1) replenishing or enhancing to required levels the PPRF's two indentured reserve funds mentioned above, namely (i) the senior lien CDSRF, and (ii) the subordinate lien SCRF; (2) funding annual legislatively enacted mandates in an amount not to exceed 35percent of the prior year's GGRT, pursuant to Section 6-21-6.1(A) of the NMFA Act; and (3) paying PPRF operating costs and providing the PPRF with ongoing liquidity and capacity enhancing new money. This mechanism ensures accountability of the use of PPRF funds for other than PPRF purposes and enables the NMFA to manage PPRF appropriations with rating agencies and investors in a manner that is deemed acceptable.
>
> There are long-term consequences with regularly breaching the statutory framework providing that no more than 35percent of the GGRT be appropriated from the PPRF. NMFA uses the remaining 65 of GGRT to fund loans to disadvantaged communities at either a 0 percent or 2 percent interest rates depending on Median Household Income metrics. Nonetheless, to ensure adequate PPRF liquidity, NMFA limits below market interest rate loans in those years in which appropriations from the PPRF exceed the statutory framework."

ADMINISTRATIVE IMPLICATIONS

The NMFA and NMED share the responsibilities of administering the DWRLF. The capitalization grants allow for set-asides to be used in administering the financial aspects by the NMFA (up to 4 percent). Of the amount, NMFA pays contractors and technical work performed by the NMED Construction Programs Bureau. Federal guidelines allow each state to use up to 27 percent of the annual EPA capitalization grant to carry out the provision of the federal Safe Drinking Water Act.

NMFA is reimbursed for administering the LGPF. The NMED's Construction Programs Bureau, under contract with NMFA, provides technical reviews and approval of planning documents related to water and wastewater infrastructure. The costs of the technical support are included in reimbursements to NMFA.

RELATIONSHIP

Senate Bill 88 contains 146 qualified entities seeking legislative authorization for PPRF loans. Unused GGRT flows through the PPRF, which is used by the NMFA to make loans to qualified entities for qualified public projects authorized by the Legislature.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If the 20 percent state match is not secured for the DWSRF, the state will lose an estimated $11 million in federal funding to support drinking water systems statewide and potentially impact the drinking water system's compliance with the federal Safe Drinking Water Act intended to ensure public health and safety.

NMFA reports without additional funds to LGPF, the grant availability for planning documents will be limited to requests in the fiscal year 2022.

If 20 percent state match is not secured for CWSRF, the program could lose $9 million in federal funds. Not receiving the grant would also impact the ability of the state agencies to provide capacity development and technical assistance to water systems statewide, including engineering and construction oversight services required by the federal program.

Not funding CAFIF would significantly reduce available funding for critical infrastructure needs for DCA facilities statewide.

SO/al