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## FISCAL IMPACT REPORT

SPONSOR: Lyons DATE TYPED: 03/15/01 HB \_\_\_\_\_  
 SHORT TITLE: Water Project Finance Act SB 169/aSCONC/aSFC/aSFI#1  
 ANALYST: Kehoe/Eaton

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates to HB 534/aHAGC

### SOURCES OF INFORMATION

State Investment Council (SIC)  
 New Mexico Finance Authority (NMFA)

### SUMMARY

#### Synopsis of SFI#1 Amendment

The Senate Floor Amendment #1 changes the Water Trust Fund Board to 15 members. The members include:

- 1) State Engineer who shall chair the Board;
- 2) Secretary of Environment;
- 3) Secretary of Energy, Minerals and Natural Resources;
- 4) Director of the NM Department of Agriculture;
- 5) Executive Director of the NM Municipal League;
- 6) Executive Director of the Association of Counties;
- 7) Director of Department of Game & Fish;
- 8) Five public members appointed by the governor and confirmed by the Senate (one each from the environmental community, an irrigation or conservancy district for surface water, an irrigation or conservancy district for ground water, an acequia water user and a soil and water conservator district);
- 9) Executive Director of the NMFA; and
- 10) One public member appointed by the Commission on Indian Affairs, and
- (11) The President of the Navajo Nation or designee.

The amendment also specifies the terms for the members, and that the public members can be reimbursed as provided for in the Per-Diem and Mileage Act.

#### Synopsis of SFC Amendments

The Senate Finance Committee amendments strike the SCONC amendments and bill provisions regarding fiscal appropriations.

The fiscal appropriations related to this bill are under consideration in House Bill 2.

Synopsis of SCONC Amendments

- The definition of a “political subdivision” is expanded to include a special district.
- The definition of a “qualifying water project” currently indicates that a project is to be “authorized by the board for funding by the authority”. The amendment provides that a project is “recommended by the board, but funded by the legislature.” For consistency, this change is made in all appropriate sections of the bill.
- Lowers the number of members to the newly created Water Trust Board from 18 to 13 members. The members would include: 1) State Engineer; 2) Secretary of Environment; 3) Secretary of Energy, Minerals and Natural Resources; 4) Director of the NM Department of Agriculture; 5) Executive Director of the NM Municipal League; 6) Executive Director of the Association of Counties; 7) Director of Department of Game & Fish; 8) Four public members appointed by the governor and confirmed by the Senate (one each from the environmental community, an irrigation or conservancy district for surface water, an irrigation or conservancy district for ground water, and an acequia water user); 9) Executive Director of the NMFA; and 10) One public member appointed by the Commission on Indian Affairs.
- Specifies the terms of service for members; provides for reimbursement under the Per Diem and Mileage Act; and clarifies members are appointed public officials while carrying out their duties and activities under the Water Project Finance Act.
- Requires eligible projects to have been identified for implementation of a completed regional water plan that is accepted by the Interstate Stream Commission; and implementation of Endangered Species Act collaborative programs.
- Adds state agencies as eligible entities to apply for grants and loans.
- Adds two new conditions: requires title for insurance policy and agreement by grantee to pay costs of originating grants and loans as determined by rules adopted by the board.
- Increases the distribution from the Water Trust Fund to the Water Project Fund at an annual amount equal to four and seven-tenths percent of the average of the year-end market values of the Water Trust Fund for the immediately preceding five calendar years.
- Allows the NMFA to recover the costs of administering the fund and originating grants and loans.
- Allows money in the Water Project Fund to be used to make loans or grants to qualified entities for any project approved by the legislature.
- Authorizes the NMFA to issue revenue bonds payable from the proceeds of loan repayments made into the Water Project Fund. Net proceeds from the sale of the bonds shall be deposited in the Water Project Fund. The bonds are authorized and issued by the Authority in accordance with the provisions of the NMFA Act.
- Allows the \$20 million appropriated from the general fund to the Water Project Fund in fiscal year 2001 and subsequent fiscal years.

Synopsis of Original Bill

Senate Bill 169 enacts the Water Project Finance Act and appropriates \$100 million from the general fund two new funds—\$80 million to a Water Trust Fund and \$20 million to a Water Project Fund. The purpose is to provide grants and loans to political subdivisions that have an urgent need and matching contributions from federal, local or other funding sources.

Significant Issues

## **Senate Bill 169/aSCONC/aSFC/aSFI#1 -- Page 3**

Senate Bill 169 establishes the Water Project Finance Act intended to provide water-use efficiency, resource conservation and protection and fair distribution and allocation of water in New Mexico. The bill further creates a Water Trust Board and establishes a Water Trust Fund and a Water Project Fund.

The Water Trust Board is to be comprised of eight ex-officio and four public members. The board duties, to be staffed by the NMFA, include: adopting rules governing the terms and conditions of loans or grants, and identifying and recommending to the legislature those grants and loans to be made to qualified entities.

The Water Trust Fund is created in the State Treasury and will initially be funded by an \$80 million appropriation from the general fund. The money in the fund is to be invested by the State Investment Officer in the same manner that the land grant permanent funds are invested. Earnings from the investment of the funds are to be credited to the Water Trust Fund and shall be used only for an annual distribution to the Water Project Fund. Commencing July 1 of FY2003, a \$4 million distribution will be made to the Water Project Fund until that amount is less than an amount equal to two and four-tenths percent of the average of the year-end market values of the Water Trust Fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be two and four-tenths percent of the average of the year-end market values of the Water Trust Fund for the immediately preceding five calendar years.

According to SIC, this distribution is 2.4 percent lower than the 4.7 percent used for the Land Grant Permanent Fund and Severance Tax Permanent Fund.

The Water Project Fund would receive \$20 million of its initial capitalization from the general fund during FY 2001. This appropriation will be for expenditures during 2001 and subsequent fiscal years for the purposes of the Water Finance Act.

### **FISCAL IMPLICATIONS**

Senate Bill 169 appropriates \$100 million from the general fund. The bill then creates two new funds, but does not require continuing appropriations. The appropriation of \$80 million to the Water Trust Fund and \$20 million to the Water Project Fund contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2001 and subsequent years shall not revert to the general fund.

### **ADMINISTRATIVE IMPLICATIONS**

The Act created in Senate Bill 169 would have an administrative and fiscal impact on the NMFA and SIC. However, the bill allows NMFA to set an administrative fee on loans and grants to be made from the Water Project Fund, pursuant to current rules adopted and approved by the NMFA's Board of Directors and Legislative Oversight Committee. According to the State Investment Council, the administrative impact would be "relatively insignificant."

### **OTHER SUBSTANTIVE ISSUES**

Senate Bill 169 centralizes water financing and creates a knowledgeable and experienced statewide board to provide short and long-term solutions to water issues currently facing political subdivisions.

**TECHNICAL ISSUES**

As written, the definition of “political subdivision,” within Senate Bill 169 does not include Pueblos or other public entities such as mutual domestic water consumers’ associations, as defined in the Sanitary Project Act.

The NMFA proposes the following amendments to Senate Bill 169:

On page 2, line 16, broaden the definition of “political subdivision” to include Pueblos or Indian Nation Tribes, mutual domestic waters consumers’ associations, and water cooperatives.

On page 4, line 24, change the priority to grant and loan recipients to include “urgent needs” **or** “matching funds.”

On page 6, lines 2 and 3, change one of the conditions under which grants and loans can be made by deleting the words “written” and “signed by an attorney.”

LMK/prr:ar/njw