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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/2016

SPONSOR Trujillo, CA LAST UPDATED _____ HB 71

SHORT TITLE Small Water System Project Financing SB _____

ANALYST Amacher

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
(\$2,016.00)	(\$1,971.00)	Recurring	Water Project Fund (See Fiscal Impact Narrative)

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
\$2,016.00	\$1,971.00	Recurring	Water Project Fund (See Fiscal Impact Narrative)

(Parenthesis () Indicate Revenue Decreases)

Duplicates, Relates to, Conflicts with, Companion to: SB 106 and HB 167

SOURCES OF INFORMATION

LFC Files

Department of Environment (NMED)
 New Mexico Finance Authority (NMFA)
 Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

House Bill 71 amends the Water Project Finance Act with new material requiring 10% of the funds that finance water projects through the water project fund be designated to small water supply associations subject to the Sanitary Projects Act that have fewer than 450 water line connections and acequia associations.

FISCAL IMPLICATIONS

House Bill 71 represents a recurring expense within the water project fund for certain entities to receive funding for water projects. Each year ten percent of funds available for projects would only be accessible to small water supply associations that are subject to the sanitary projects act and acequia associations.

A significant portion of funding for the water project fund is dependent upon severance tax bond proceeds. The water project fund receives annual distributions of ten percent of severance tax bond capacity (estimated \$18.4 million for FY16) and an additional \$4 million from the water trust fund. The value of the ten percent for the water project fund will change year to year depending on oil and gas revenues.

Available funding for water projects from the water project fund is determined after deducting a ten percent set-aside for water adjudication. In 2005 (Chapter 293) a recurring ten percent appropriation of the water project fund was provided to the Office of the State Engineer (OSE), with 20 percent to the Administrative Office of the Courts, for water adjudication.

Remaining funds are then available for consideration of funding water projects from all eligible and qualified entities. HB 71 represents an additional ten percent deduction, each year, of the total available funds for projects are awarded only to two types of entities. HB 71 would require \$2 million, of the approximate \$20.2 million net of adjudication, be awarded only to projects implemented by water supply associations under the Sanitary Projects Act and acequia associations in FY16.

If HB 71 is enacted, there is a potential of an accumulation of unused funds within the water project fund in any given year if: 1) there are not enough applications submitted, determined eligible and qualify, by the acequia associations or small water supply associations under the Sanitary Projects Act; and 2) the projects by these two types of entities do not total the proposed ten percent.

SIGNIFICANT ISSUES

Water supply associations under the Sanitary Projects Act are primarily mutual domestic water associations. These associations along with acequia associations are currently eligible entities for financial assistance from the water project fund. In 2001, the Legislature created the Water Project Finance Act, the Water Trust Board, the water project fund and the water trust fund. The purpose of which is to provide financial assistance to political subdivisions of the state, tribes and pueblos, for water projects statewide.

The Water Trust Board awards all available funds for projects in the water project fund each year guided by established rules and policies. To ensure each available dollar is awarded the board set out guidelines that dedicate a range of funds to each of the five types of projects. This range allows the board a small degree flexibility to accommodate the number of qualified applications in a given year by project type. For instance if there are zero applications for an Endangered Species Act collaborative project the funds that may have gone to those project may be awarded to other project type categories, thereby ensuring there are not funds left unused in any given year.

In 2015, the Water Trust Board amended its rules and policies decreasing many barriers for funding for smaller systems and the expected result is that more small systems will qualify for funding. The funding requirements were streamlined, the application process simplified, and a sliding scale for determination of local match increases access to the program are a few of the recent changes made to the program.

SB 106 and HB 167 contain authorizations for 42 projects, seven of which (17%) meet the description of entities in HB 71.

ADMINISTRATIVE IMPLICATIONS

The NMFA administers the water project funds through grants and loans to qualified entities for eligible projects authorized by the Legislature and as recommended by the Water Trust Board. The OSE and NMED provide technical assistance to the NMFA for engineering and construction oversight.

There is an existing acequia project fund, devoted to funding grants for acequia projects, as supported by the Water Project Finance Act. However, this fund does not have a dedicated revenue source. Since its creation in 2004 the acequia project fund was endowed with a private donation of \$200,000. To date ten projects totaling \$175,000 have been funded.

NMFA reports that over the past three years, the entities described in HB71 have represented 15% of the successful applicants on average. The total awards however have only averaged 5% of the total funding from the water project fund in the same period.

OTHER SUBSTANTIVE ISSUES

NMED reports the scoring and ranking system used by the Water Trust Board is extensive and fair. It does not qualify projects by size or financial standing, but rather by the type and need for the proposed project. Setting aside the 10% contemplated in HB71 could potentially decrease available funding to other, higher ranking, or more needed projects that have applied for funding.

RELATIONSHIP

SB 106 and HB 167 authorizes the NMFA to make loans or grants for 42 projects from the water project fund. This bill was endorsed by the NMFA Legislative Oversight Committee.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Water Trust Board would be able to award fiscal year 2016 funds to eligible projects and entities as guided by the current rules and policies.

JMA/jle