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FISCAL IMPACT REPORT

SPONSOR Woods/Ingle **LAST UPDATED** _____
ORIGINAL DATE 2/23/23
SHORT TITLE Curry County Behavioral Health Facility **BILL NUMBER** Senate Bill 379/ec
ANALYST Esquibel

APPROPRIATION* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24-FY25		
	\$39,000.0	Nonrecurring	Consumer Settlement Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Attorney General’s Office (NMAG)
 Department of Finance and Administration (DFA)
 Human Services Department (HSD)

SUMMARY

Synopsis of Senate Bill 379

Senate Bill 379 (SB379) appropriates \$39 million from the consumer settlement fund of the Office of the Attorney General to the Local Government Division of the Department of Finance and Administration for expenditure in FY23 through FY25 to design, construct, and equip a behavioral health facility in Curry County.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

The appropriation of \$39 million contained in this bill is a nonrecurring expense to the consumer settlement fund of the Attorney General’s Office. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the consumer settlement fund.

The Attorney General’s Office reports all consumer settlements are placed into the consumer

settlement fund, although much of the fund is restricted for certain purposes, such as the opioid settlement fund. Unlike other bills that specifically reference the opioid settlement fund (such as SB425), SB379 does not specify whether the funds are intended to be paid from any specific restricted funds within the consumer settlement fund.

The current unrestricted balance of the consumer settlement fund is approximately \$34 million which is less than the appropriation contained in the bill. Approximately 50 percent of the Office of the Attorney General's operating budget is funded from the consumer settlement fund. Therefore, funding this project with the current unrestricted fund balance would create a deficit of available funds and conflict with appropriations within HB2. Without a supplemental appropriation to address the budget deficit the Attorney General's Office would not be able to fulfil its statutory obligations.

HSD reports the proposed appropriation for the mental health facility is \$39 million, but according to the projections from the Eastern New Mexico Regional Behavioral Health Facility Feasibility Study published in 2022 by Initium Health, it may cost \$45 million.

SIGNIFICANT ISSUES

The Attorney General's Office reports if the intent of SB379 is to allocate funds from the opioid settlement fund (a restricted fund within the consumer settlement fund), the funds may only be spent on approved expenses. In New Mexico, the allocation and use of opioid settlement dollars are governed by an allocation agreement between the state and local governments. The allocation agreement directs 45 percent of funds to the state and 55 percent to local governments. The share of funds going to local governments is divided across regions. Settlement funds must go towards approved opioid related expenditures consistent with categories outlined in the national settlement agreement, such as increased naloxone or support for comprehensive syringe services programs, as well as other approved interventions. It does not appear that SB379 would be related to an approved expense under the opioid settlement.

PERFORMANCE IMPLICATIONS

Approximately 50 percent of the Office of the Attorney General's operating budget is funded from the consumer settlement fund and the bill would create numerous and significant performance implications for all operations in the office. Without a supplemental appropriation to address the budget deficit the Attorney General's Office would not be able to fulfil its statutory obligations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB379 relates to:

- HB214 – appropriates new monies from the consumer settlement fund
 - \$13,368,700 for the Attorney General's Office
 - \$934, thousand for the administrative office of the courts
 - \$8,000 to the Attorney General's Office for Gold King mine costs

- HB29 and SB377 – each appropriates \$1.3 million from the consumer settlement fund to the Local Government Division of DFA in order to fund integrated substance use disorder programs in San Miguel County.

HB92—Residential Treatment Services, appropriates \$859 thousand from the general fund to the Human Services Department to fund an organization located in Dona Ana County that provides long-term residential treatment services for people diagnosed with serious mental illness and psychosis.

OTHER SUBSTANTIVE ISSUES

HSD reports the City of Clovis, in cooperation with surrounding cities and counties, requested a feasibility study covering the need for a regional mental health facility, costs of land and construction, recruitment of staff/employees, operational costs, a business plan, potential grant funding, and potential income. Curry County commissioners are supportive of a behavioral health center for the area.

RAE/mg/ne/mg