

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/06
 LAST UPDATED 2/11/06

SPONSOR HAFC HB HJR 6/HAFCS

SHORT TITLE Water Trust Fund, CA SB _____

ANALYST Kehoe/Lewis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NFI	NFI	NFI	NFI

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB132, HB134, HB296, HB 272, SB93, SB194, SB224, and HJM 21.

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)
 Energy, Minerals and Natural Resources Department (EMNRD)
 New Mexico Environment Department (NMED)
 New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of Bill

The House Appropriations and Finance Committee substitute for House Joint Resolution 6 proposes to amend Article 16 of the Constitution of New Mexico to create a water trust fund whose purpose shall be to secure a supply of clean and safe water for New Mexico's residents.

Money in the fund shall be invested by the state investment officer as land grant permanent funds are invested, and there shall be strict accountability and oversight measures as provided by the state investment council to ensure appropriate safety of and return on investments.

On July 1, 2008 and each fiscal year thereafter, an annual distribution shall be made to the water project fund, which shall be used only to support critically needed projects that preserve and protect New Mexico's water supply. That distribution shall then be appropriated by the Legislature for water projects consistent with a state water plan and as otherwise provided by law.

The amendment shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

SIGNIFICANT ISSUES

The Water Project Finance Act, Chapter 164, Laws of 2001, created a water trust fund program, a water project fund and a water trust board. The water trust fund is intended to provide a permanent revenue source to provide grants and loans to political subdivisions and to provide for long-range planning and financing of regional and statewide water supply projects. To date, the water trust fund has never been capitalized to establish the permanent corpus of the fund.

Eligible water projects funded from the water project fund are defined as those involving:

- 1) the storage, conveyance or delivery of water to end-users;
- 2) the implementation of federal Endangered Species Act collaborative programs;
- 3) the restoration of watersheds;
- 4) flood prevention;
- 5) conservation; or
- 6) recycling, treatment or reuse of water.

In 2005, the Act was amended to add the category of “water rights adjudication” to provide automatic funding in an amount equal to 10 percent of the annual distribution to the water project fund. Following the 2005 Legislative Session, prior to the sale of severance tax bonds, it was determined the severance tax bonds could not be used for administrative purposes. Therefore, the Office of the State Engineer and the Administrative Office of the Courts did not receive money for adjudication purposes from the water project fund in 2005.

Although the water trust fund was not funded, the water project fund is currently capitalized with 10 percent of the severance tax bonding capacity each year as provided by Laws of 2003, Chapter 134. The 10 percent set-aside of severance tax bond capacity for FY06-07 is approximately \$28.5 million for allocation by the water trust board for eligible water projects authorized by the Legislature. Money from the severance tax bonds may not be used to pay indirect project costs, and any unexpended balance from proceeds of severance tax bonds issued for a water project shall revert to the severance tax bonding fund within six months of completion of the water project. NMFA is responsible for monitoring and ensuring proper reversions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 272 provides for the transfer of \$100 million from the general fund to the water trust fund effective in fiscal year 2006. However, no distribution or expenditure of the transferred general funds may be made until on or after January 1, 2007. The bill requires that the voters adopt an amendment to the New Mexico Constitution establishing the water trust fund at the 2006 General Election. If establishment of the water trust fund is not ratified by the voters, the \$100 million must be transferred from the water trust fund back to the general fund.

House Bill 132 amends the Water Project Finance Act to provide that money in the water trust fund shall not revert at any time.

Senate Bill 194 duplicates the intent of House Bill 134, House Bill 296 and Senate Bill 93 providing that \$100 million of the nonrecurring revenue of the general fund remaining at the end of fiscal year 2006 be transferred to the water trust fund.

House Joint Resolution 6/HAFCS – Page 3

Senate Bill 93 and House Bill 134 appropriate \$100 million from the general fund to the water trust fund for the purpose of carrying out the provisions of the Water Project Finance Act.

Senate Bill 224 deletes a provision within the Water Project Finance Act which would have allowed 10 percent of the total amount allocated to the water project fund to be used for water rights adjudication.

House Joint Memorial 21 requests that the Legislative Council appoint a task force to assess options for creating a permanent funding mechanism for the water trust fund.

OTHER SUBSTANTIVE ISSUES

According to the New Mexico Finance Authority (NMFA), over \$2 billion in water-related needs have been identified throughout the state. The Water Trust Board in FY05 received over \$129 million in requests for water-related projects. To date, the Water Trust Board has recommended \$47 million of grant funding for 47 projects for 29 local entities statewide. The state has leveraged more than \$50 million of local and/or federal funding.

LMK/ML:nt