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FISCAL IMPACT REPORT

ORIGINAL DATE 2-10-07

SPONSOR Griego LAST UPDATED _____ HB _____

SHORT TITLE Drinking Water System Arsenic Standards SB 677

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
\$10,000.0	\$10,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$150.0	\$150.0	\$300.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SM24 and HM24 HB781

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)
 Energy, Minerals, Natural Resources Department (EMNRD)
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 677 appropriates \$10.0 million from the general fund each year to the New Mexico Environment Department to make grants for improving drinking water systems to meet the federal arsenic standards.

FISCAL IMPLICATIONS

The appropriation of \$10.0 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall not revert to the general fund.

HB 677 intends NMED to administer the grant program, presumably by its Construction Programs Bureau (CPB) with assistance from the Drinking Water Bureau. NMED specifies that the appropriation of \$10 million may allow for up to approximately 50 grants to various communities. Each grant will require significant technical oversight, requiring at least two additional full time employees (FTEs) to complete that work. \$150.0 thousand would be the approximate cost for one engineer and one administrator FTE.

SIGNIFICANT ISSUES

NMED points out that in New Mexico arsenic occurs naturally in groundwater. DOH notes that long-term exposure to elevated concentrations of arsenic in water can cause cancer of the skin, lungs, urinary bladder, kidneys.

In 2001 the federal standard for arsenic was lowered from 50 parts per billion (ppb) to 10 ppb, with an effective date of December 31, 2007. That change caused many water systems, which had been in compliance with the arsenic standard, to be out of compliance.

Reducing arsenic levels in drinking water is a difficult problem for water systems to correct. The cost to bring the systems into compliance can be significant, with additional operating costs implied. According to Senate Memorial 24, approximately \$135.0 million is needed to rebuild water treatment facilities and that approximately \$20.0 million will be needed annually in additional operating costs. Small systems are less able to absorb the short term and long term financial impacts of reducing arsenic levels.

NMED details as follows:

“... there are approximately 80 drinking water systems potentially in violation of the federal Safe Drinking Water Act (SDWA) because those systems have a water source with an arsenic concentration greater than the Maximum Contaminant Level (MCL) of 10 parts per billion (ppb). The population statistics are as follows: approximately 28 percent of the water systems impacted by arsenic serve less than 100 people; 32 percent serve between 100 and 500 people; 30 percent serve between 500 and 10,000 people; and 10 percent serve populations between 10,000 and 500,000 people. Of the 80 systems affected, approximately nine are currently installing treatment systems or have found alternative sources of water. Therefore, approximately 70 water systems must find solutions to their arsenic problems. A primary reason that many systems have not yet been able to address their arsenic problem is because of the high cost of installing and maintaining a treatment system. This bill will greatly assist arsenic-impacted water systems with the high cost of reducing arsenic concentrations in their drinking water.”

PERFORMANCE IMPLICATIONS

NMED suggests that HB will allow arsenic-impacted systems to install adequate treatment to

bring arsenic levels within a level that puts the systems on a reduced monitoring schedule for arsenic. That could assist NMED's Drinking Water Bureau meet its performance measure of completing 95 percent of the sampling requirements within the required timeframe. The bureau would also be able to assist water systems with high arsenic levels meet compliance standards mandated by Safe Drinking Water Act regulations.

If administered by the CPB, its performance measures for customer satisfaction could drop without the added resources to administer the grants and provide the technical assistance.

ADMINISTRATIVE IMPLICATIONS

To administer the grant fund, NMED will have to determine how to rank and prioritize requests for assistance. Either NMED's Drinking Water Bureau or Construction Program Bureau (or both in cooperation) will need to track the grants, as well as review plans and specifications for the water systems. If a new grant coordinator position is created to administer the grant program, it will assist with addressing those and other issues.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 677 relates to House Memorial 24 and Senate Memorial 24, both which request the Governor and NMED to protest the new arsenic standard, its significant costs for implementation without federal funding, and insufficient data pertaining to arsenic levels in New Mexico relating to health effects.

SB 677 relates to House Bill 781, which proposes creating an Office of Water Infrastructure Development and moving the CPB to this new department.

TECHNICAL ISSUES

SB 677 does not specify a current fund that is administered by NMED and does not create a new fund by statute.

Language does not provide for earnings to be distributed as grants.

The effective date would be June 30, 2007.

ALTERNATIVES

NMED suggests that an amendment targeting the bill at small drinking water systems impacted by arsenic would direct the money to systems least financially able to contend with their arsenic problems.

Some of the impacted water systems may seek a loan from the clean water state revolving fund or the rural infrastructure revolving loan fund. Grants are also obtainable through the Special Appropriations Program, which would allow legislative direction for the funds. Other funding agency sources include the United States Environmental Protection Agency's State and Tribal Assistance Grants (STAG), New Mexico Finance Authority's Water and Wastewater Grant Fund, and the Water Trust Board.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Some impacted systems may have a difficult time obtaining a loan due to their current financial circumstances and those systems will seek grant monies. However, during the time a system is seeking funding from other sources, they may be in violation of state and federal regulations and potentially impacting the health of their customers. Those and other arsenic-impacted systems will compete with other worthy projects for grant funding and the continuing need for funding for arsenic treatment will be unmet.

POSSIBLE QUESTIONS

1. Will the grants apply to additional operating costs or new infrastructure only?
2. How will the grants be prioritized?
3. How will the grants be fairly distributed?
4. Will the grants be made with “sliding scale” loan components, as Best Management Practices dictate?
5. Can the fund be leveraged?
6. Will the grants be administered by the Drinking Water Bureau or the Construction Programs Bureau, or both in cooperation?
7. If the Office for Water Infrastructure is created, how would the funds and FTE be transferred?
8. If the request to the EPA for a reduced arsenic standard is granted, how would that event affect this new program and fund?
9. Will the appropriation continue indefinitely?
10. Are there any other funding sources for the grants?

MA/nt