F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 3/3/09
SPONSOR Barela **LAST UPDATED** 3/5/09 **HB** 805

SHORT TITLE Liquor Excise Tax Distribution Administration **SB**

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	$333.6	$348.8	Recurring	DFA-Local DWI
	($333.6)	($348.8)	Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 805 changes the distribution of that part of the liquor excise tax revenue that goes to the local DWI fund to DFA for administering the local grants program. The current distribution is no more than $600 thousand and HB805 changes that to be 5 percent of the amount distributed to the local DWI fund. This lowers the amount available for grants and increases the amount DFA can spend for administering the Local DWI Grant program.

HB805 also changes the schedule for determining the amount available for quarterly distribution to an annual determination from the current quarterly. According to DFA, this will make it easier for counties to budget the funds. Any excess at the end of the year after earmarked distributions will be distributed to the counties according to the formula.

There is an emergency clause so the change will be effective upon enactment.

FISCAL IMPLICATIONS

The fiscal impact is a shift from grant making funds to administrative funds and there is no impact on the general fund or any of the earmarked or formula driven distributions. Funds not needed for administrative purposes can be used for grants and any amount at the end of the fiscal year does not revert to the general fund. According to DFA, HB 805 would reduce the amount of funding going to local programs by approximately $309K in FY10. However, currently LGD must ask the state DWI Grant Council to approve reverted funds ($250K), for use for program evaluation. If HB 805 passes, LGD would not have to request additional funds from the state DWI Grant Council, which means that more funding would be available to counties in grants.

There may be a small impact in FY09 that is not shown here. The uncertainty about when the bill will be enacted and how much of the liquor excise tax has already been distributed makes that calculation difficult.

NEW DFA DISTRIBUTION	Current Law	HB805	Difference
LIQUOR EXCISE TAX REVENUE (FY10)	**$ 44,991,453**	**$ 44,991,453**	$ -
General Fund	**26,320,000**	**26,320,000**	
Local DWI Fund	**18,671,453**	**18,671,453**	$ -
Distribution			
Local Government Division - Grants	1,900,000	1,566,427	$ (333,573)
Local Government Division - Admin	600,000	933,573	$ 333,573
Local Government Division - Interlock	300,000	300,000	$ -
Detox and treatment programs			
Bernalillo	1,700,000	1,700,000	$ -
San Juan	300,000	300,000	$ -
Santa Fe	300,000	300,000	$ -
Rio Arriba	200,000	200,000	$ -
Sandoval	150,000	150,000	$ -
Socorro	150,000	150,000	$ -
Drug Courts	1,500,000	1,500,000	$ -
Formula Distribution to Counties	11,571,453	11,571,453	$ -

HB805 expands a continuing appropriation. LFC has concerns about continuing appropriations in statutory language as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

According to DFA, $600 thousand is not enough to administer the fund and that the Local Government Division (LGD) has had trouble recruiting qualified candidates to fill positions. A 5% administrative budget would also allow for professional development and training for LDWI employees at LGD. Currently LDWI employs people with expertise and/or certification in the areas of counseling, compliance monitoring/probation, prevention, and forensic toxicology. It is necessary for effective program management and technical support of county programs that LDWI employees remain current with their area of expertise and certifications.

DFA:

Currently, the Local DWI Grant Program (LDWI) must distribute all transfers from the Taxation and Revenue Department (TRD) to the counties on a quarterly basis. The amount may rise and fall as alcohol excise tax revenues are collected by TRD. Counties struggle at the end of the fiscal year to adjust budgets when funding comes in higher or lower than projected because they do not know the final amount they will receive until June 10 (when the final distribution is sent as per Section 11-6A-6 D); which gives them less than three weeks to make last minute adjustments. HB 805 will allow a stable distribution funding level to be set for the fiscal year by the state DWI Grant Council. It will eliminate the struggle which counties have in the fourth quarter to spend or cut programs because of overages or shortages. The bill also creates a mechanism for allocating distribution overages by formula in the next fiscal year's grant. HB 805 simplifies the planning and management of funds for county programs, and provides them the ability to more effectively manage their budgets by receiving a predictable amount of funding in each fiscal year.

The LDWI Program allows counties to fund eight components (Screening; Enforcement; Prevention; Compliance, Monitoring and Tracking; Coordination, Planning & Evaluation; Alternative Sentencing; Outpatient Treatment; and Alcohol Related Domestic Violence). The breadth of strategies and disciplines by local governments allows for a multi-pronged approach to DWI prevention. LGD works closely with other state agencies (HSD, TSB, DOH, AOC, and CYFD), as well as the statewide DWI Grant Council to ensure that each component is implemented according to state rules and regulations. Each agency also provides input to the LDWI guidelines. A 5% administrative budget would allow for professional development and training for LDWI

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc

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PERFORMANCE ISSUES

According to DFA, the LDWI Program, established in statute in 1993, has been a consistent source of funds for counties, municipalities and tribal governments since then. The Department of Finance and Administration, through the Local Government Division, with its knowledge of working with local governments, is an appropriate agency to administer the LDWI Program. The design of each local program is a local decision based on local gaps and needs.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

DFA:

Not enacting this bill means that each of the 33 counties programs may continue to have difficulties in managing their budgets effectively at the end of each fiscal year.

LGD will not be competitive when hiring LDWI program staff, and will not be able to provide staff with appropriate training opportunities.

LGD will not be able to effectively analyze and manipulate LDWI county budget information without appropriate program management database software.

NF/mt