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FISCAL IMPACT REPORT

ORIGINAL DATE 03/06/09

SPONSOR HAGC LAST UPDATED _____ HB 922/HAGCS

SHORT TITLE Public Peace, Health, Safety and Welfare SB _____

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 77

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$19,500.0	\$19,500.0	Nonrecurring	Drinking Water State Revolving Loan Fund (See Fiscal Impact Narrative)

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)
New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Bill 922 amends the Drinking Water State Revolving Loan Fund Act (Laws 1997, Chapter 144) to change the definition of financial assistance to allow “loan subsidies as permitted by law, including principal forgiveness.”

This bill contains an emergency clause.

FISCAL IMPLICATIONS

House Bill 922 clarifies the ability of the New Mexico Finance Authority (NMFA), in cooperation with the New Mexico Environment Department, to administer the New Mexico Drinking Water State Revolving Loan Fund Act within the requirements and terms of the economic stimulus money allotted to New Mexico through the American Recovery and Reinvestment Act (ARRA) of 2009 (Stimulus Bill). The ARRA is an Act of Congress enacted by the 111th United States Congress and signed into law by the President on February 17, 2009. The Act is intended to provide a stimulus to the U.S. economy in the wake of the “economic downturn brought about by the sub-prime mortgage crisis and the resulting credit crunch.”

According to NMFA, the bill provides additional clarity as NMFA readies for the \$19.5 million capitalization grant authorized by ARRA for the Drinking Water State Revolving Loan Program. The ARRA law requires that projects funded with these “stimulus” funds be subject to the Bacon Davis Wage Act and the Buy American purchasing requirements. Depending on the project, these two additional requirements could add significantly to the cost of the drinking water project. According to the New Mexico Environment Department, ARRA mandates that states “shall not use not less than 50 percent of the amount of its capitalization grants to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these.”

The NMFA will be allowed to use up to four percent of the anticipated ARRA capitalization grant for NMFA administrative costs, including personnel and contracts. No state match is required for the loan funds, the four percent administrative set-aside or the two percent technical assistance set-aside. The state is required to match dollar for dollar the 10 percent state programs set-aside.

SIGNIFICANT ISSUES

Notwithstanding any other provision of the Drinking Water State Revolving Loan Fund Act, financial assistance from the fund may be made to eligible local authorities in accordance with applicable provisions of federal laws and regulations governing the use of funds derived from capitalized grants and other federal funding sources, including funds made available under the Safe Water Drinking Act, ARRA and any other federal law pursuant to which money is provided to the fund.

NMFA is required to commit all ARRA funds by June 17, 2009 and to have all approved projects in construction by February 2010 or the federal Environmental Protection Agency will redirect the funds to another state. Without ability to provide subsidies, these funds will be difficult to commit to projects.

ADMINISTRATIVE IMPLICATIONS

The set-asides for the current drinking water state revolving loan fund program are used as follows:

- a) develop technical, managerial, and financial capacity for local water systems;
- b) assist entities in qualifying for loans;

- c) provide technical assistance targeted to systems serving 10,000 persons or less;
and
- d) provide loans to community water systems that assist water systems to improve infrastructure and meet SDWA requirements

NMFA uses its portion of the set-aside to administer the fund for such expenditures as legal counsel, construction oversight, and technical review related to project completion.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 77, as amended appropriates \$2 million from the public project revolving loan fund to the drinking water state revolving loan fund to provide state matching funds for the federal Safe Drinking Water Act of 1974 to carry out the purposes of the Drinking Water State Revolving Loan Fund Act.

OTHER SUBSTANTIVE ISSUES

The New Mexico Drinking Water State Revolving Loan Fund Act was enacted in 1997 in response to the re-authorization of the federal Safe Drinking Water Act (SDWA). The SDWA required the Environmental Protection Agency (EPA) to make capitalization grants to states over several years to further the health objectives of SDWA. The state Act created the drinking water state revolving loan fund and charged the New Mexico Finance Authority with establishing, in cooperation with the Environment Department, a loan program to provide local authorities with low-cost financial assistance in the construction of necessary drinking water facilities. Laws of 2001 amended the Act to allow private community water systems to qualify for funding under the act and eliminate certain restrictions for refinancing existing water system debt in order to make state law consistent with federal law.

NMFA indicates the provisions of this bill are not expected to impact the regular Drinking Water Revolving Fund loan program which makes loan subsidies only in the form of below-market interest rates.

LMK/mc