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FISCAL IMPACT REPORT

ORIGINAL DATE 2/18/09

SPONSOR Munoz LAST UPDATED _____ HB _____

SHORT TITLE Northwest NM Regional Solid Waste Authority SB 588

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$130.0	Recurring	Sold Waste Facility Grant Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

Senate Bill 588 authorizes the appropriation of \$130,000 from the Solid Waste Facility Grant Fund to the Environment Department for expenditure in fiscal year 2010 to assist the Northwestern New Mexico Regional Solid Waste Authority (Red Rocks Regional Landfill, Thoreau, NM) in paying for operational and maintenance costs.

FISCAL IMPLICATIONS

The appropriation of \$130.0 contained in this bill is a RECURRING expense to the Solid Waste Facility Grant fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2010 shall revert to the Solid Waste Facility Grant fund.

The NMED states that if enacted, Senate Bill 588 would remove \$130,000 from the Solid Waste Facility Grant Fund for one landfill and takes that money out of competitive process in the Solid Waste Act.

There are many other potential applicants in need of funding at this time because tipping fee revenues for solid waste disposal have fallen statewide.

The NMED has limited budget authority to award grants, and if the \$130,000 were appropriated for this single Authority, it would use 52 percent of the currently available funds budgeted for this purpose.

SIGNIFICANT ISSUES

The NMED contributed the following concerns regarding the appropriation in this bill.

Such an appropriation would be in conflict with the Solid Waste Act NMSA 1978, §74-9-40, and the Environmental Protection Solid Waste Facility Grant Fund. The Act, §74-9-40(A) states the fund may be used to “establish a program to make grants to counties and municipalities individually or jointly, for the establishment or modification of solid waste facility or for contracting for solid waste services in accordance with the Solid Waste Act and regulations of the board pursuant to the act; and §74-9-40 (C) can “award grants only to counties and municipalities that meet the criteria established by the division.”

The criterion established in Environmental Improvement Board regulation in 1995, §20.9.200(A) NMAC, states “Grant Application: General Grant Application Requirements: Assistance is available on **a competitive basis** to qualified municipalities and counties, individually or jointly.” (Emphasis added) The regulation then state: §20-9.300 NMAC, “Priority Ranking for Facility Grants (A) Purpose: This Subpart (Section) provides the procedures to rank applications so that the highest priority is based on the greatest need without ability to fund activity by other sources. Those procedures also **provide a mechanism to ensure an equitable and reasonable allocation of funds where there are not sufficient funds available to fund all eligible projects** for which applications have been received.” (Emphasis added)

The Department, which will provide applications for competitive consideration within the next 60 days, will award grants by the end of fiscal year 2009 for use into 2010. The Northwestern New Mexico Regional Solid Waste Authority would be eligible to apply for a grant, and its application would considered and ranked in accordance with §20.9.3.300 NMAC.

OTHER SUBSTANTIVE ISSUES

The December 2008 – January 2009 issue of the *LFC Newsletter* reports that the Environment Department has ordered the Northwest New Mexico Regional Solid Waste Authority to pay a little over \$370,000 as a penalty for 15 violations at the Red Rock Regional Landfill in Thoreau. The department says the landfill failed to monitor methane, failed to cover litter daily to control insects and rodents, and failed to safely store tires and scrap metal.

ALTERNATIVES

The NMED proposes that as an eligible entity, Northwestern New Mexico Regional Solid Waste Authority may submit a grant application for consideration within the next 60 days as specified in the forthcoming grant application announcement. Such a process does not need legislation and is in compliance with the Solid Waste Act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The NMED states that the consequences of not enacting this bill will ensure compliance with the Solid Waste Act and will preserve the competitive mechanism among those applying for grants to ensure equitable and reasonable allocation of funds.

CH/mt