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

SPONSOR HTRC
ORIGINAL DATE 02/10/12
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HB CS/191/aHAFC

SHORT TITLE Severance Tax Bond Projects
SB

ANALYST Kehoe/Snyder

APPROPRIATION (dollars in thousands)

Appropriation			Recurring or Nonrecurring	Fund Affected
FY12	**FY13**	**FY14**		
$130,420.0			Nonrecurring	Severance Tax Bond Fund
$1,000.0			Nonrecurring	Equipment Replacement Revolving Fund
$100.0			Nonrecurring	Game and Fish Bond Retirement Fund
$547.5			Nonrecurring	Game Protection Fund
$1,000.0			Nonrecurring	Miners' Trust Fund
$2,500.0			Nonrecurring	Public School Capital Outlay Fund
$1,400.0			Nonrecurring	Public Project Revolving Fund
$350.0			Nonrecurring	State Road Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	**FY13**	**FY14**		
($27,500.0)			Nonrecurring	Severance Tax Bond Fund
$27,500.0			Nonrecurring	State Road Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee Amendment to the House Taxation and Revenue Committee Substitute for House Bill 191 provides as follows: deletes the $20 million for equal distribution to each of the six highway districts and deletes $9,287,800 for incomplete projects statewide. The amendment adds the following:

1. $27.5 million for a design and build delivery system for the planning, environmental clearance, design, acquisition of rights of way, new construction and reconstruction of the interchange at the intersection of the Paseo del Norte Boulevard and Interstate 25 in Albuquerque in Bernalillo County contingent on an equal or greater match from sources other than the state,
2. $500,000 for infrastructure, renovation and upgrades at the Grants Branch campus of New Mexico State University in Cibola County,
3. $200,000 for the completion of the construction of Cabresto dam in Taos County,
4. $180,000 for infrastructure improvements to the Oscar Huber Memorial ballpark and grandstands in Madrid in Santa Fe County, and
5. $1.5 million to plan, design, construct and furnish the county complex in Mora in Mora County.

The amendment further changes the administering agency for two projects: 1) from the Office of State Engineer to New Mexico State University for the Maldonado dam in Grant County, and 2) from the Local Government Division of the Department of Finance and Administration to New Mexico State University for the water harvesting unit for the fire department in Torrance County.

Synopsis of Original Bill

The House Taxation and Revenue Committee Substitute for House Bill 191, authorizes approximately $129.8 million from severance tax bond capacity and approximately $6.9 million from other state funds for various capital outlay projects statewide. The bill contains an emergency clause. In addition, the bill authorizes expending $30 million from severance tax bond capacity in fiscal years 2013 and 2014.

FISCAL IMPLICATIONS

The estimated severance tax bond (STB) net capacity in fiscal year 2012 is $130.3 million after deducting amounts from the estimated senior STB gross capacity of $264.2 million. Deductions are made for the following: $67.4 for bonds authorized in 2011 Special Session, $13.6 million for authorized but unissued bonds in 2011 Special Session; 10 percent of capacity equal to $26.4 million for deposit into the water project fund; 5 percent of capacity equal to $13.2 million for deposit into the tribal infrastructure project fund; and 5 percent of capacity equal to $13.2 million for deposit into the colonias infrastructure project fund. Supplemental severance tax bond capacity dedicated for public school construction is approximately $148.7 million.

The bill authorizes that in FY2013 no more than $15 million in bonds shall be issued and in FY2014 no more than $15 million in bonds shall be issued for a design and build delivery system for the planning, environmental clearance, design, acquisition of rights-of-way, new construction, and reconstruction of the interchange at the intersection of Paseo del Norte

Boulevard and Interstate 25 in Albuquerque in Bernalillo County. The $30 million is contingent on an equal or greater match from sources other than the state.

The severance tax bond capacity authorized in this bill is a nonrecurring expense to STB capacity and other state funds (OSF). The OSF impacted includes the equipment replacement revolving fund administered by the Department of Information and Technology; the game and fish bond retirement fund and game protection fund administered by the Department of Game and Fish; the Miners' Trust fund; the public school capital outlay fund; the public project revolving fund, and the state road fund. The reauthorizations contained in this bill are a non-recurring expense to the severance tax bond fund. Except for appropriations to the capital program fund, money from STB proceeds and any other state fund contained in this bill may not be used to pay indirect project costs.

For the purposes in sections 1 and 2 of this bill, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties. If an agency has not certified the readiness for STB proceeds by the end of fiscal year 2014, the authorization is void.

Unless otherwise specified, the unexpended balance from STB proceeds and appropriations made from OSF will revert to the originating fund no later than the following dates: 1) for a project appropriated to match federal grants, six months after completion of the project; 2) for a project appropriated to purchase vehicles, including emergency vehicles and other vehicles requiring special equipment, heavy equipment, books, educational technology, or other equipment or furniture not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued or an appropriation was made for the purchase; and 3) for any other project for which STB were issued or an appropriation was made, within six months of completion of the project, but no later than the end of fiscal year 2016.

In compliance with the Severance Tax Bonding Act, the State Board of Finance (BOF) is authorized to issue and sell STB in an amount not to exceed the total of the amounts appropriated in this bill. The BOF must also comply with the Internal Revenue Code of 1986, as amended. The agencies named in this bill shall certify to the BOF when the money from the proceeds of the severance tax bonds authorized in the bill is needed for the purposes specified in the applicable section of the bill. Before an agency certifies for issuance of the bonds, the project must be developed sufficiently so that the agency reasonably expects to: 1) incur within six months after the applicable bonds have been issued a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project; and 2) spend at least eighty-five percent of the bond proceeds within three years after the applicable bonds have been issued.

Based on the certification of project readiness by grantees, the BOF authorizes the sale of bonds. The issuance of tax-exempt bonds for projects not ready to commence leaves the state open to noncompliance with the Internal Revenue Service Code. Failure to spend STB proceeds in a timely manner causes the state, under IRS regulations, to have to rebate interest earnings the state could otherwise use to reduce the cost of a project or to reduce debt service costs.

SIGNIFICANT ISSUES

As in past years, state and local entities are requesting funds well beyond capacity: $2.3 billion in requests ($706.1 million state requests and $1.6 billion for top three local project requests) compared with capacity of $264.3 million from all sources.

The bill contains nearly $33.4 million for local projects sponsored by House members, $33.6 million for local projects sponsored by Senate members, and $42.8 million for statewide projects. The $42.8 million includes $9.3 million to address "incomplete projects" statewide as initiated by the executive. The "incomplete projects" are listed in Section 29 of the bill.

Section 27 of the bill authorizes $20 million to the state road fund for equal distribution to each of the Department of Transportation six highway construction districts for priority projects, including pavement preservation and other projects to preserve the department's investment in highway facilities.

A majority of the statewide projects contained in the bill relate to infrastructure needs at state-owned facilities intended to address public health and safety, projects in progress, preservation of state-owned property value, and projects depending on federal match dollars to maximize state dollars. Executive agencies whose missions are tied to facility conditions such as hospitals, long-term care facilities, correctional and juvenile facilities, and public safety facilities face a multitude of issues due to substandard and aged facilities unable to meet fire and environmental code compliance.

Given the state's limited resources, the bill contains reauthorizations of unused balances from previously authorized projects. Specifically, $4 million of unexpended balances from a 2009 appropriation for land acquisition for a health and human services complex to instead be used for completion of the Manuel Lujan, Jr., building in Santa Fe; $5 million of unexpended balances from the 2011 Special Session appropriation for information technology to instead be used as follows: to the Public Education Department $2.5 million for purchase of state-owned public school buses and to the Department of Information Technology $3 million to be used for communication upgrades to meet federal compliance by 2013. In addition, the bill authorizes funds for renovation or construction of pre-kindergarten classrooms from the public school capital outlay fund, contingent upon the approval of the Public School Capital Outlay Council (PSCOC). Following the 2011 Special Session, supplemental severance tax bonds were issued totaling over $207 million for the public school capital outlay fund for the purpose of public school construction. It is estimated the fund will receive an additional $147.8 million in FY13.

The PSCOC reopened the deficiency correction process with a commitment to address infrastructure deficiencies at the New Mexico School for the Deaf (NMSD) and the New Mexico School for the Blind and Visually Impaired (NMSBVI). Also, the PSCOC moved to adopt adequate standards for the schools and allow them to apply for annual standards funding. It is anticipated the PSCOC could consider same for pre-kindergarten classrooms.

Section 34 of the bill authorizes $1.4 million from the public project revolving fund to the wastewater facility construction loan fund to implement the provisions of the Wastewater Construction Loan Act. The dollars provide state matching funds to generate $7 million from federal funds pursuant to the Clean Water Act.

OTHER SUBSTANTIVE ISSUES

The current market conditions and the competition for work have driven down labor costs and profit margins, but it is difficult to predict how long this trend will continue. Delaying shovel-ready projects, in particular completion of the Manuel Lujan, Jr. building located in Santa Fe and the Meadows Long-Term Care facility located in Las Vegas could become costly.

If severance tax bond funds for the most critical projects contained in this bill are not authorized, facilities statewide will continue to deteriorate and be unsafe resulting in possible liability issues for the state.

LMK:SGS/svb