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FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/14

SPONSOR Griego LAST UPDATED _____ HB _____

SHORT TITLE Ruidoso Flood Damage Funding Match SB 128

ANALYST Chenier

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	\$9,159.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 162

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Homeland Security and Emergency Management (DHSEM)

SUMMARY

Synopsis of Bill

Senate Bill 128 (SB 128) appropriates \$9.16 million from the general fund to DHSEM for expenditure in FY15 through FY19 to plan, design, and construct improvements to the wastewater infrastructure in Ruidoso that was damaged by the 2008 severe flooding within the village limits as required by the presidential declarations of emergency and the federal emergency management plan.

FISCAL IMPLICATIONS

The appropriation of \$9.16 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY19 shall revert to the general fund.

This appropriation may be eligible as a match for Federal Emergency Management Agency (FEMA) grants in an arrangement where the presidential disaster declarations would cover 75 percent of the cost of the damage incurred, local entities would cover 12.5 percent, and this appropriation would cover the remaining 12.5 percent. The appropriation would potentially make

\$54.9 million of federal matching revenue available on top of state match amounts already made available through executive orders issued by the governor. State matching rates for FEMA grants range from 0 to 18 percent.

Due to this disaster, Ruidoso is expecting to repair or replace eight bridges and will reconstruct the sewer system costing an estimated \$50 million. Ruidoso has already received two executive orders providing \$750 thousand each and has received a special appropriation of \$4.9 million for a total of \$6.4 million. These amounts would make a possible \$38.4 million already available from federal matching dollars at the 12.5 percent matching rate. Additionally, there is approximately \$3.7 million that has not been spent from state revenue for this disaster.

SIGNIFICANT ISSUES

DHSEM provided the following:

Without the funding the Village of Ruidoso may be unable to repair their damaged wastewater system resulting in a possible threat to public health and safety, major violations of federal and state water quality laws, lost revenues due to loss of system capacity impacting community businesses and residences and impacts to efficiency of existing wastewater treatment plant.

The original Project Worksheet for repair of the sewer was estimated at \$6 million. This was based on restoration of the sewer system which, in many places, is located in the Rio Ruidoso river channel. Upon consultation with the US Army Corp of Engineers it was determined that an “in river” repair would not meet the statutory requirement of Section 404 of the Clean Water Act which requires proposed projects be implemented in the “least environmentally impacting” fashion. Initial evaluation of “in river” mitigations revealed it would cost more to fix “in river” than to relocate the system out of the river and this alternative has been approved by FEMA. Currently, Ruidoso’s engineering consultants are preparing the 30% design documents for the “out of river” alternative for FEMA environmental review.

TECHNICAL ISSUES

This bill contains an emergency clause making an immediate FY14 appropriation but the appropriation is not to be expended until FY15. This may make the emergency clause mute.

DHSEM provided the following:

The agency is concerned with the language which appropriates the funding to DHSEM to “plan, design and construct improvements. DHSEM does not “plan, design and construct improvements.” DHSEM provides pass-through funding for communities to complete these tasks. DHSEM suggests the language be amended to reflect that money is to be passed through DHSEM to the Village of Ruidoso for those activities.

The agency is also concerned with the language beginning on line 22 as the funding is limited to wastewater infrastructure. DHSEM believes language should be included indicating the funding is used as match for all eligible damaged infrastructure in Ruidoso identified in Presidential Disaster Declaration FEMA-1783-DR-NM, as this would allow

the funding to be used to repair other structures such as bridges that were also damaged and deemed eligible for repair by FEMA.

EC/svb