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FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/19
 SPONSOR Allison LAST UPDATED 3/3/19 HB 498/aHLVMC
 SHORT TITLE Abandoned Utility Facilities & Funds SB _____
 ANALYST Martinez/Gaussoin

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
	\$10,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$55.0	\$55.0	\$165.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to: SB489

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)

Workforce Solutions Department (WSD)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of HLVMC Amendment

The House Labor, Veterans’ and Military Affairs Committee Amendment to House Bill 498 strikes the word “qualifying” in several places and makes other language to allow for the energy transition displaced worker assistance fund to be used for the benefit of workers displaced or communities affected by the shutdown of a coal-fired generating facility and an energy plant that displaces at least 40 workers.

Synopsis of Original Bill

HB 498 requires that any Public Utility that owns or leases a coal-fired generating facility for which abandonment authority has been requested must apply to replace the abandoned generating capacity with up to 450 megawatts of power output within one year of Utility Commission approval of abandonment. The replacement capacity must be located within the same school district as the abandoned capacity and must be subject to property taxes or an equivalent payment in lieu of taxes (PILOT).

The Commission will consider applications for replacement capacity giving preference to those with the least environmental impacts, higher ratio of capital costs to fuel costs, and the ability to reduce cost of land reclamation. The Public Utility must provide qualitative and quantitative data and analysis about potential replacement capacity options detailing the cost, economic development opportunity, and ability to create jobs. The Commission shall grant approval for replacement generating capacity requested or an alternative source of replacement capacity and will allow the Public Utility to recover reasonable costs.

The bill establishes the Energy Transition Economic Development Fund (ETED Fund) and allocates \$7 million to the Fund in FY20. The ETED Fund will be administered by the Economic Development Department (EDD) to diversify and promote the economy in communities within 100 miles of a coal-fired generating plant that has filed intent to abandon or within 100 miles of any generating facility in New Mexico that closes and displaces forty workers or more. The ETED Fund will be used to foster economic development opportunities unrelated to fossil fuels. EDD will develop a diversification and development plan through a public process and will then distribute the money in the ETED Fund through qualified entities, employers, and/or local governments.

The bill also establishes the Energy Transition Displaced Worker Assistance Fund (ETDWA Fund) and allocates \$3 million to that Fund in FY20. The ETDWA Fund will be administered by the Workforce Solutions Department (WSD) to assist New Mexico residents who have been terminated from employment due to abandonment of a coal-fired generating facility (or any generating facility in New Mexico that closes and displaces forty workers or more) within the past 12 months. Displaced workers would be eligible for assistance if they received at least 75 percent of their net income from the generating facility and have not been able to replace the lost wages or at least 75 percent of the lost wages. WSD will develop a displaced worker development plan through a public process and will then distribute the money in the ETDWA Fund to assist employers to qualify for tax relief, to local governments for job training and apprenticeship programs, and/or to WSD to assist displaced workers through WSD programs.

FISCAL IMPLICATIONS

The appropriation of \$7 million to the energy transition economic development assistance fund contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall nor revert to the general fund.

The appropriation of \$3 million to the energy transition displaced worker assistance fund contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall nor revert to the general fund.

HB489 creates new funds, and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

Section 1 (B.) states that replacement resources must be subject to property taxes or a binding commitment to make an equivalent payment in lieu of taxes. “A payment in lieu of taxes” is a payment made to compensate a government for some or all of the property tax revenue lost due to tax exempt ownership or use of real property. In HB 498, this would require the qualifying entity to make a payment in lieu of taxes. If this payment is a one-time payment, it can impact the Public Education Department’s State Equalization Guarantee (SEG) formula. If the local government does not receive property taxes, the SEG amount provided by PED would go up, however, the total operating revenue for the municipality would go down.

The Economic Development Department provided the following:

The abandonment of an operating generating facility results in a loss of jobs and economic stress to the surrounding community and the state as a whole. This bill tries to reduce or eliminate the negative economic impact of the change by requiring the utility to replace the generation capacity in the same area and requiring that any replacement contribute property tax or a PILOT.

The general fund allocation of \$7M to the ETED Fund supports efforts to diversify the economy around the generating stations so as to reduce the impact of a change in employment and economic activity of a generating plant. The \$3M allocation to the ETDWA Fund supports worker training so as to reduce the length of time that a worker is displaced should an abandonment occur.

EDD would need to reallocate resources or identify additional resources in order to administer the ETED Fund, complete planning, and foster geographically targeted economic development opportunities required by passage of this bill.

However, EDD did not state what the financial impact would be to either hire an FTE to perform these duties or contract with an outside entity to perform these duties. However, EDD is currently seeking additional funding for the FY20 fiscal year for more FTE because they are understaffed. Therefore, the financial impact to EDD would be minimal, assuming only one FTE would need to be hired, at a medium pay range of \$55 thousand to administer requirements in HB498.

The Department of Workforce Solutions provided the following:

DWS would be responsible for administering the fund using the appropriated money and implementing plans to appropriately disburse the money. There would not be any additional administrative funding required as these are programs DWS already offers. The appropriated funding in this bill would permit additional or enhanced services to the displaced workers.

SIGNIFICANT ISSUES

The Economic Development Department provided the following:

New Mexico, and to a lesser degree the nation, is working on sustainability efforts to reduce the amount of power consumed by individuals and industry. Power generation may not need to be replaced if demand has been reduced.

Requiring a public utility to replace abandoned power generation facilities with alternative capacity in same school district would create jobs in same area where other jobs were lost but those jobs would not necessarily require the same skill set or be at the pay scale. (i.e.: if a coal-fired boiler is replaced by wind generation, a boiler technician may not be reemployed). Additionally, power needs to be delivered to consumers. The availability of infrastructure for power transmission limits where any utility can generate power. Requiring replacement power to be in same school district may not be technically feasible. School district boundaries are not consistent in the amount of area they cover (i.e.: San Juan County has 4 separate school districts while all of Sierra County is covered in a single district.)

This Bill requires that any replacement power capacity that is developed pay property tax or an equivalent or PILOT. Renewable sources of power generation, such as wind or solar, typically utilize tax abatement through an Industrial Revenue Bond (IRB) process. An IRB approved by the local government is often crucial to making the high upfront cost of facility development financially feasible. Requiring new replacement facilities to forego that tax abatement tool may make them noncompetitive in the power market.

The Workforce Solutions Department provided the following:

The Workforce Solutions Department (DWS) is the primary agency responsible for administering the funds issued by the US Department of Labor for employment services, job training and support services to help New Mexicans with significant barriers to employment, including displaced workers. Workers displaced by an abandoned utility are eligible for unemployment insurance benefits, job search assistance, and job training through programs available through DWS. The proposed additional funds would increase availability of subsidies used to cover costs associated with career exploration, job readiness, job training for displaced workers in affected communities.

The term “displaced worker” is defined as a New Mexico resident who, within the previous twelve months, was terminated from employment, or whose contract was terminated, due to the anticipated abandonment of a qualifying generating facility or the abandonment of a facility that generates energy with an impact on forty workers. It is unclear whether workers employed by fuel and ancillary suppliers, or service establishments, would also be included in the definition as displaced by the anticipated impact of the qualifying generating facility and would also be eligible for benefits under the Energy Transition Displaced Worker Assistance Fund.

According to the U.S. Bureau of Labor Statistics, there were 68 privately-owned establishments in New Mexico in 2017 in the industry of “Electric power distribution” (NAICS 221122). These establishments employed about 2,380 workers, who earned an average annual pay of \$87,582.

The Public Regulation Commission provided the following:

SB492 is an alternative to the provisions of SB489 (the “Energy Transition Act” or “ETA”) that provide for financial assistance to displaced workers and the communities impacted by utility abandonment of coal plants. Unlike the ETA, this bill has taxpayers pay for this assistance and not just ratepayers.

PERFORMANCE IMPLICATIONS

The Economic Development Department provided the following:

The Bill requires that EDD administer the Energy Transition Funds, develop plans, and distribute money through existing and new programs, but all of the allocated funds are designated for employers, local governments, or workers. EDD may not have the capacity to meet the goals of this bill within their existing staffing and funding resources.

ADMINISTRATIVE IMPLICATIONS

The Economic Development Department provided the following:

EDD would need to reallocate resources or identify additional resources in order to administer the ETED fund, complete planning, and foster geographically targeted economic development opportunities required by passage of this bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB489 relates to SB 489.

SB489 requires the entity to put money in the newly created funds from bonds created from securitization and passes the costs on to the rate payers. The bond life in SB489 is 25 years.

HB498, makes a one-time appropriation from the general fund to essentially cover the costs and does not pass on any additional costs to rate payers.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Economic Development Department provided the following:

Current Utility Commission regulations related to generating facility abandonment of service (62-9-5) will continue to inform the process for abandoning coal-fired generating facilities. EDD and WSD will continue to work towards diversifying New Mexico’s economy, foster economic development opportunities, support displaced workers, employers, and local government needs.

The Workforce Solutions Department provided the following:

If not passed, \$3 million will not be available to provide assistance specifically to energy transition displaced workers. These workers would still be able to access the services the

Department currently offers but would not have funds dedicated solely to aid them.

The Public Regulation Commission provided the following:

If HB498 is not enacted, the abandonment of San Juan Generating Station, Four Corners Power Plant and other coal plants that utilities decide to retire before they are fully depreciated would be managed by the Commission in accordance with traditional utility principles. The Commission would have the authority to consider replacement resources without locational or other specific evaluation criteria.

JM/sb/al