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

SPONSOR	Lundstrom/Garcia, H,/ Alcon/Johnson/ Sanchez	**ORIGINAL DATE** / **LAST UPDATED**	1/23/2020 / 3/04/2020	**HB**	8/aHCEDC/aHSEIC/ aHFl#1/aSCORC/aSJC /aSFC
SHORT TITLE	Electric Generating Facility Econ Districts			**SB**	
				ANALYST	Iglesias

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	**FY21**	**FY22**		
$0	Up to $2,739.6	Up to $2,739.6	Recurring	Revenue from McKinley County for District Authority
$0	Up to $865.8	Up to $865.8	Recurring	Revenue from Cibola County for District Authority
$0	**Up to $3,605.4**	**Up to $3,605.4**	**Recurring**	**Total Authority Revenue**

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files
Responses Received From
Economic Development Department (EDD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee Amendment adds that elected officials shall not influence or attempt to influence any action of any authority member, and states that an authority member shall post a surety bond for the faithful performance of the member's duties pursuant to the Surety Bond Act. The amendment further requires the county forming the district to ensure no authority member is employed or contracted with an energy development business during their appointment. Lastly, the amendment requires any authority member with a conflict of interest on a voting matter to resign from the authority.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment strikes the SCORC amendments dealing with changes to the district authority membership. The SJC amendment provides that the county forming the district can appoint five members to the authority. If additional counties become part of the authority, the amendment provides that county may appoint four members to the authority to serve in staggered four-year terms.

The amendment also removes the ability for the authority to establish a resolution that delegates some of the authority's powers to a member or agent of the authority.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment gives the newly created authority the ability, by December 31, 2020, to authorize a county within 20 miles of the qualifying electric generating facility to become part of the authority. This would limit the number of counties that may join an authority resulting from the upcoming Escalante power plant closure to just McKinley and Cibola.

After initial formation of the authority, the amendment allows the newly joining county (if it chooses to join) to appoint an equal number of members as were appointed by the county that formed the authority. If both counties join the authority, the initial county government shall reduce the number of appointed members in order to allow the newly joining county to appoint an equal number while staying under the bill's limit of nine total members. In this case, each county would appoint an equal number of members, and those members would then appoint one additional member to retain the bill's requirement for an odd number of total members.

Synopsis of HFl#1 Amendment

The House Floor Amendment #1 strikes the HSEIC amendment, but like that amendment it also strikes the language in the bill that provided the power of eminent domain to a district authority created pursuant to the bill. Additionally, the HFl#1 amendment allows for the imposition of the electric generating facility economic district gross receipts tax to be imposed on businesses operating within the county and county area.

Synopsis of HSEIC Amendment

The House State Government, Elections and Indian Affairs Committee amendment strikes language in the bill that provided the power of eminent domain to a district authority created pursuant to the bill.

Synopsis of HCEDC Amendment

The House Commerce and Economic Development Committee amendment restricts counties that may form a district to those with an operating, retiring, or retired coal-fueled electric generating facility that is owned by a non-investor-owned electric utility.

This language limits the number of possible counties to which the bill may apply, in line with the stated legislative intent for this to assist McKinley County and Cibola County with the upcoming closure of the Escalante power plant.

Synopsis of Original Bill

House Bill 8 creates the Electric Generating Facility Economic District Act. The act allows counties with a fossil fuel electric generating facility that is operating, retiring, or retired to form a district in which the governing authority can issue bonds for infrastructure within the district and pledge revenues for the repayment of those bonds. Additionally, the authority may establish long-term development plans for the district, manage lands and properties associated with the authority within the district, and apply for public or private sources of financial assistance.

The bill states the authority governing the district must consist of five to nine appointed members with experience in energy development business, economic development, finance, commercial real estate, investment, or accounting.

The bill indicates and defines parameters of the districts' bonding authority and clarifies rules related to the bonds (and of their refund). Specifically, the authority may issue revenue bonds for the purpose of constructing, purchasing, improving, remodeling, furnishing or equipping any necessary building, structures, roads or other infrastructure for the district. It may pledge any or all revenue received by the district to pay interest on and principal of the bonds. The bill notes these bonds are not the obligation or liability of the state or the county.

The act allows for counties with an electric generating facility economic district to impose a "county electric generating facility economic district gross receipts tax" of up to 0.25 percent, the revenue of which may only be used for the payment of bonds issued pursuant to the act. The tax can be imposed in any number of increments of 0.001 percent, provided the aggregate amount of increments would not exceed 0.25 percent. The tax would not apply to incorporated areas, because the boundaries of the district are confined to just the county areas.

There is no effective date of this bill. This bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

The bill would enable districts to generate gross receipts tax (GRT) revenue to pay for bonds issued by the district. The bonds authorized by the district, the income from the bonds, mortgages or other security instruments executed as security for the bonds, lease agreements authorized by the district, and revenue derived from a lease or sale by an authority are exempt from taxation by the state and its political subdivisions.

The bill allows counties that border the county that created the district to become part of the authority. Because much of the lost jobs associated with the Escalante power plant closure (see Significant Issues for more details) are located in Cibola County, the fiscal impact estimates provided by the Economic Development Department (EDD) assume McKinley County forms the authority and then Cibola County joins, and they subsequently impose the full 0.25 percent GRT increment. The revenues shown are the maximums generated from each of the two counties and the total. Although the bill contains an emergency clause, the assumption is made that due to timing issues, the tax likely would be imposed at the start of FY21.

EDD states the revenue table has been updated to reflect the House Floor amendment to allow the tax to be imposed within the entire county rather than just remainder of county areas outside municipalities. EDD based their estimates off FY19 gross receipts per county area (excluding the incorporated areas of Gallup, Grants, and Milan). It is important to note the numbers listed in the table should be viewed as the upper end of the spectrum because once the Escalante power generation facility closes and layoffs occur, the tax base will inevitably shrink. However, that impact is difficult to estimate.

The district could potentially encompass other adjacent counties as well; however, while that is important to note, EDD iterates the fiscal impact estimates only show the potential revenues in these two counties impacted by the upcoming closure of the Escalante power station. *The SCORC amendments 1 and 2 appear to address this issue by limiting the number of counties that may join an authority.*

The bill denotes the district may employ a director who may employ an administrative staff, which would require an operating budget.

SIGNIFICANT ISSUES

The Economic Development Department provided the following discussion:

> "The bill enables the district to use property to create jobs and foster economic development in all areas it deems appropriate and in the public welfare. To communities which house fossil fuel electric generating facilities, this point is significant because the bill acts an economic development support tool which allows financing opportunities.
>
> Recently, the Tri-State Generation and Transmission Association announced it will shut down its Escalante coal-fired generating station near Grants by the end of 2020 which will eliminate at least 107 plant jobs (ABQ Journal, January 2020). This bill would empower communities affected negatively by job loss within the fossil fuel energy production industry to have a tool to support the local economy by creating and retaining jobs.
>
> The table below shows estimated state and local tax revenues generated within each county and statewide. The statewide number also includes personal income tax revenues, which were not allocated by county. The estimates include direct and indirect tax revenues through the operation of the Escalante power plant and employee spending."

Estimated Annual Tax Revenues Generated by Escalante Power Plant & Employees			
	McKinley County	Cibola County	Statewide Total
Total Property Tax	$ 2,399,741	$ 323,628	$ 2,723,369
Total GRT	$ 337,824	$ 238,836	$ 576,660
Total PIT	0	0	$ 357,840
County & State Totals	**$ 2,737,565**	**$ 562,464**	**$ 3,657,869**
Sources: Development Research Partners 2019 report prepared for Tri-State; EDD estimates			

The Taxation and Revenue Department provided the following policy discussion:

> "A 2019 November report from Development Research Partners for Tri-State demonstrated that the Escalante Power Plant located in McKinley County has local direct expenditures of $71.3 million and employs approximately 105 full time local employees with relatively high wages for the region. The Escalante Power Plant would meet the requirements of this bill as amended by HCEDC.

The plant is scheduled to shut down, resulting in the loss of jobs and the plant's contribution to the areas tax base. The creation of an electric generating facility economic district may assist in supporting relief efforts for the area through the ability to issue revenue bonds for the purpose of improving infrastructure in the county remainder. The GRT increment would support the repayment of these revenue bonds.

Coal fired plants in New Mexico are located in rural, relatively low-income areas. The allowance of this increment would increase taxes on the individuals and businesses in these areas, which should be considered. This impact would be overwhelmed by the positive benefit to the region for infrastructure projects which may supply jobs for local residents, improve roads, buildings, etc., and may as a result of these improvements induce business creation."

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 2 contains a special appropriation of $9 million to the Economic Development Department for Local Economic Development Act (LEDA) projects in Cibola and McKinley counties, $500 thousand to the New Mexico Institute of Mining and Technology and $500 thousand to New Mexico State University for education and retraining of displaced workers from coal fired plants. The appropriation is contingency upon certification from the Department of Finance and Administration that the operator of the coal-fired plant has committed $5 million to complement the appropriation.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

DI/sb/al