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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/21
LAST UPDATED 03/10/21 **HB** 241/HAWCS/aSCONC

SPONSOR HAWC

SHORT TITLE Water Trust Fund Mutual Domestic Set-Aside **SB** _____

ANALYST Olson/Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
See Fiscal Implications			Water Project Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB137, HB200

SOURCES OF INFORMATION

LFC Files

Responses Received From

- New Mexico Finance Authority (NMFA)
- New Mexico Environment Department (NMED)
- Office of the State Engineer (OSE)

SUMMARY

Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to House Agriculture and Water Resources Committee substitute for House Bill 241 limits the 10 percent set-aside from the water project fund for mutual domestic water systems with fewer than 300 service connections. Further, the set-aside will expire on June 30, 2025 and provides for the unexpended balances to be used for purposes pursuant to the Water Project Finance Act.

Synopsis of Original Bill

The House Agriculture and Water Resources Committee substitute for House Bill 241 amends the Water Project Finance Act to require a 10 percent set-aside of the annual distribution to the water project fund to grants for qualifying water projects that serve mutual domestic water systems. Grants for Mutual Domestic Water Associations (MDWA) shall not require a matching contribution and will not be required to be part of an accepted regional water planning area for eligibility but are required to obtain all requisite state and federal permits and authorizations as part of the grant authorization and may use the grant funds to acquire permits if approved.

The bill defines MDWA as a mutual domestic water consumers association or other association organized pursuant to the Sanitary Projects Act.

There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The water project fund is capitalized through annual distributions of 9 percent of the senior severance tax bond capacity (\$591.8 million in fiscal year 2021) and an annual distribution from the water trust fund (\$4 million). The 9 percent earmark, \$53.3 million, plus \$4 million from the water trust fund totals \$57.3 million for the water project fund in fiscal year 2022.

Laws 2005, Chapter 293, provides that 10 percent, or nearly \$5.73 million, of all funds in the water project fund may be allocated to the Office of State Engineer (OSE) to be used for adjudication. Of the OSE allocation, 20 percent, or approximately \$1.15 million, will transfer to the Administrative Office of the Courts for adjudication purposes. Approximately \$51.6 million will be available for the projects in Senate Bill 137 requiring authorization by the Legislature.

The 10 percent set-aside of the annual amount to be allocated from the water project fund proposed in this bill would provide grants to qualifying water projects that serve mutual domestic water systems totaling approximately \$5.16 million.

Currently, the Water Trust Board policies require that applicants for funding from the water project fund match any awards with funding from sources other than severance tax bonds. The match amount is determined on a sliding scale based on the median household income of the applicant, the amount of the request, and the type of projects. In addition, NMFA reports current policies require that applicants supported by a rate-paying constituency undertake a loan ranging between 10 percent and 40 percent of the total award. NMFA reports the average award in FY20 was approximately 80 percent grant and 20 percent loan.

SIGNIFICANT ISSUES

The Water Project Finance Act provides a permanent revenue source to provide grants and loans to political subdivisions for water projects authorized by the Legislature. Eligible water projects pursuant to the act include (1) water storage, conveyance, and delivery; (2) conservation, recycling, treatment, or reuse of water; (3) restoration and management of watersheds; (4) Endangered Species Act collaborative projects; and (5) flood prevention projects.

NMFA administers the water project fund and partners with other state agencies, such as the Environment Department and the Office of the State Engineer, for technical assistance. Projects are recommended by the Water Trust Board for authorization. Following authorization by the Legislature, the Water Trust Board further reviews the projects for additional project readiness and policy qualifications prior to a funding recommendation. NMFA establishes the terms and conditions of the loans and grants awarded from the fund and as recommended by the Water Trust Board.

PERFORMANCE IMPLICATIONS

The Environment Department (NMED) conducts compliance and enforcement activities for approximately 1,070 public water systems across the state. NMED regulatory responsibilities include issuing violations to public water systems when they do not comply with the Safe Drinking Water Act or New Mexico Drinking Water Regulations.

NMED reports often issuing health-based drinking water violations to mutual domestic water systems because of their difficulty complying with regulatory requirements and their funding challenges. Mutual domestic water systems are generally small systems with limited revenue. Effectively providing funding for necessary repairs and upgrades to these water systems may improve compliance rates and safer drinking water.

The Office of the State Engineer (OSE) reports mutual domestic water users may not be incentivized to seek out federal cost-share contribution for their water projects without the match component.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 137 authorizes NMFA to make loans or grants for 37 projects from the water project fund.

House Bill 200 amends the New Mexico unit fund by directing the Interstate Stream Commission (ISC) to consult with the Water Trust Board (WTB) on funding water utilization projects in Catron, Grant, Hidalgo, and Luna counties. HB200 also amends the Water Project Finance Act to expand the duties of the WTB to evaluate projects, including their environmental impacts, and recommend projects to the ISC.

OTHER SUBSTANTIVE ISSUES

Following authorization by the Legislature, NFMA and its board will further review the projects for additional project readiness and policy qualifications prior to a final funding recommendation. NMFA establishes the terms and conditions of the loans and grants awarded from the fund as recommended by WTB. Applicants are guided by policies and rules that identify minimum application standards, which include mandatory planning documents and evidence of additional funding.

SO/LMK/al/rl/al