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FISCAL IMPACT REPORT

SPONSOR <u>Cervantes</u>	LAST UPDATED <u>3/8/23</u>
	ORIGINAL DATE <u>2/15/23</u>
SHORT TITLE <u>Water Project Fund Projects</u>	BILL NUMBER <u>Senate Bill 314/ec</u>
	ANALYST <u>Sanchez</u>

APPROPRIATION* (dollars in thousands)

(See Fiscal Implications)		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
(\$121,590.0)	(\$129,510.0)	Recurring	Net Severance Tax Bond Capacity
\$121,590.0	\$129,510.0	Recurring	Water Project Fund
(\$3,600.0)	(\$3,600.0)	Recurring	Net Water Trust Fund
\$3,600.0	\$3,600.0	Recurring	Water Project Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 57

Sources of Information

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)

Office of the Attorney General (NMAG)

Office of the State Engineer (OSE)

SUMMARY

Synopsis of Senate Bill 314

Senate Bill 314 authorizes the New Mexico Finance Authority to make loans or grants from the water project fund pursuant to the Water Project Finance Act, Section 72-4A-1 to Section 72-4A-11 NMSA 1978 for 59 qualifying water projects on terms and conditions as established by the New Mexico Finance Authority and the Water Trust Board. Proposed projects are required to demonstrate compliance with relevant water rights laws and state drinking water regulations. Projects with regulatory deficiencies are routinely excluded from the list. After review by the technical team, comprising representatives from seven regulatory agencies, projects are then selected for recommendation to the Legislature.

The New Mexico Finance Authority (NMFA) is responsible for the administration of the annual application cycle on behalf of the Water Trust Board (WTB). During the 2023 application cycle, NMFA received 59 eligible applications totaling approximately \$138.7 million. On November 8, 2022, the WTB approved the recommendation of all 59 applications totaling approximately \$138.7 million of requests.

Senate Bill 314 authorizes the New Mexico Finance authority to expend \$138.7 million from the water project fund in the form of loans or grants to the qualifying entities named in the bill for the water and wastewater projects enumerated in the bill.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

Analysis from the New Mexico Finance Authority states:

Assuming no direct appropriations are made from the Water Project Fund during the 2023 Legislative Session, approximately \$125.2 million, net of adjudication, will be available for projects authorized by SB 314. The Water Project Fund receives an annual distribution of nine percent of the severance tax bonds issued by the State Board of Finance (“SBOF”). This sum is estimated to be \$135.1 million for FY 2023 based on December 2022 SBOF estimates. Also, in FY 2023, the Water Project Fund is expected to receive a \$4 million distribution from the Water Trust Fund.

The Office of the State Engineer (“OSE”) receives 10% of the Severance Tax Bond proceeds and Water Trust Fund distributions deposited into the Water Project Fund annually for adjudication, as enacted by HB 1110, 2005 Legislative Session. It is estimated the OSE will receive a total of \$13.91 million from the FY 2023 Severance Tax Bonds and FY 2023 Water Trust Fund distribution.

Expenditure of funding from the water project fund based on Legislative adoption of the recommendations of the Water Trust Board are critical to the completion of ongoing water and wastewater projects throughout the state. According to the State Investment Council’s website:

The water trust fund distributes \$4 million annually to the state’s Water Trust Board, which authorizes spending these and other state funds on various water infrastructure projects around New Mexico. The water trust fund will require additional capital to remain sustainable over time. Current estimates are that, without an additional infusion of capital or a restructuring of its current distribution requirements, there is a 50 percent chance the fund will fall to \$0 in the next 20 years

Senate Bill 57 would appropriate \$250 million to the water trust fund in the hopes of ensuring its long-term solvency.

SIGNIFICANT ISSUES

The projects recommended in Senate Bill 314 were evaluated using criteria and policies established by the Water Trust Board. These criteria include the inclusion of relevant planning documents, including preliminary engineering reports, design analysis reports, or technical

memoranda. WTB policies also require that entities expend previous awards in a timely fashion prior to the recommendation of further funding for other projects. Entities applying for WTB funding must match the awards with funds that are not severance tax bond proceeds based on a sliding scale that considers the median household income of the applicant, the size of the request, and the type of project.

According to NMFA, WTB recently approved policy revisions that allow for waivers of the local match requirement for water systems serving fewer than 250 connections, and which have “previously secured WTB funding for the proposed project; or if the system upgrade is to consolidate with another system; or the system upgrade/expansion is to incorporate previously unserved customers and is not for future development.” NMFA continues:

To qualify for the local match waiver, the applicant must have implemented an Asset Management Plan for the current and future maintenance, replacements, and repair of the system.

Additionally, the policies provide that WTB financial assistance for projects supported by a rate-paying constituency may contain a loan component of between 10% and 40% of the total award, with the remainder delivered as a grant. The recent WTB policy revisions also allow NMFA to waive loan requirements for water projects when the applicant serves fewer than 500 connections and has previously secured WTB funding for the same project; or the project is to consolidate with another system. To qualify for the loan waiver, the applicant must have implemented an Asset Management Plan for the current and future maintenance, replacements, and repair of the system. The average award in FY 2022 was approximately 83% grant and 17% loan. The loans are for terms of up to 20 years and are made at a 0% interest rate.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 57 would appropriate \$250 million to the water trust fund in the hopes of ensuring its long-term solvency. SB314 relates to a \$100 million to the water trust fund for the same purpose in the House Appropriations and Finance Committee substitute for House Bill 2 (the General Appropriation Act).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Senate Bill 314 represents the annual recommendation of the Water Trust Board for projects reviewed by its technical team and selected for funding with legislative approval. Absent approval by the Legislature, no awards will be given for the 2023 cycle, and the projects selected will be unable to move forward.

SS/al/hg/ne