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FISCAL IMPACT REPORT

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|--------------------|--|----------------------|---------------------|
| SPONSOR | Reps. Roybal Caballero and Lujan/Sen. Ortiz y Pino | LAST UPDATED | 2/3/24 |
| | | ORIGINAL DATE | 1/22/24 |
| SHORT TITLE | Geothermal Resources Project Funds | BILL NUMBER | House Bill 91/aHAFC |
| | | ANALYST | Wan Smith |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|------------------------------|------------------|--------|--------|-------------------|---------------------------|---------------|
| Office of the State Engineer | No fiscal impact | \$75.0 | \$75.0 | \$150.0 | Recurring | General Fund |
| Total | No fiscal impact | \$75.0 | \$75.0 | \$150.0 | Recurring | General Fund |

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 Energy, Minerals and Natural Resources Department (EMNRD)
 Office of the State Engineer (OSE)

SUMMARY

Synopsis of HAFC Amendment to House Bill 91

The House Appropriations and Finance Committee amendment to House Bill 91 strikes the appropriation from the original bill.

Synopsis of Original Bill

House Bill 91 (HB91) appropriates \$600 thousand from the general fund to the Energy, Minerals and Natural Resources Department (EMNRD) for the purpose of carrying out the provisions of the legislation and administering the funds and programs it creates. HB91 also appropriates \$25 million from the general fund to two new funds created for the purpose of financing geothermal development projects, as defined by the bill.

HB91 creates the geothermal projects development fund as a nonreverting fund to be administered by EMNRD’s Energy Conservation and Management Division (ECMD) and appropriated by the Legislature. The fund may be used to provide grants up to \$250 thousand for cost-benefit studies of proposed geothermal development projects. The fund may also provide

grants for financing a geothermal development project. A grant recipient must be a political subdivision of the state, a state university, or an Indian nation, tribe, or pueblo, when approved by the EMNRD cabinet secretary. The bill permits use of the geothermal projects development fund for administrative costs incurred by the agency.

The legislation creates the geothermal projects revolving loan fund, also to be administered by ECMD. The fund is nonreverting but subject to appropriation by the Legislature. The fund may be used to provide loans to political subdivisions of the state, state universities, Indian nations, tribes, or pueblos, nonprofit organizations, and private entities for financing geothermal development projects. The bill stipulates that loans are to be made at the lowest legally permissible interest rates. The fund may also be used for EMNRD administrative costs.

HB91 defines a “geothermal development project” as a project that uses the heat of the earth above 100 degrees Fahrenheit to generate electricity or otherwise support industrial, commercial, or residential uses. The bill additionally amends ECMD’s duties to include (1) administration of laws and rules relating to geothermal resources, except those specifically administered by another authority, (2) administration of the geothermal projects development fund and grant program and the geothermal projects revolving loan fund and loan program, (3) application for federal grants related to geothermal resources development, and (4) fostering growth of geothermal resources in New Mexico.

The effective date of this bill is July 1, 2024.

FISCAL IMPLICATIONS

The appropriation of \$25 million contained in this bill for the two new funds is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall not revert to the general fund. The appropriation of \$600 thousand for personnel and operating expenses contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the general fund. Although HB91 does not specify future appropriations, establishing a new grant program could create an expectation the program will continue in future fiscal years; therefore, this cost is assumed to be recurring.

The Office of the State Engineer (OSE) reports that HB91 would have a significant impact on the agency’s Water Rights Division and Hydrology Bureau. From OSE’s analysis:

As most of the state’s thermal resources lie between the temperatures of 100 and 250 degrees Fahrenheit and those waters are under the jurisdiction of the OSE pursuant to Chapter 72 NMSA, they are subject to prior appropriation system of groundwater and injection and/or recovery wells constructed for geothermal exploration and development of any found thermal resource are subject to the jurisdiction, review, and analysis of the OSE.

OSE expects to need an additional 0.5 FTE to review and approve exploratory geothermal well designs as well as any water rights issues that arise in relation to geothermal projects.

SIGNIFICANT ISSUES

ECMD currently regulates high temperature geothermal resources under the authority of the Geothermal Resources Development Act, and HB91 makes minor adjustments to its duties under that statute. However, HB91 provides that ECMD apply for federal geothermal grants, and the agency notes this type of grant has historically been targeted to universities and other research organizations and it is unlikely ECMD would be eligible for existing funding programs.

As noted in “Fiscal Implications,” projects involving water below 250 degrees Fahrenheit may require permitting with OSE. For that reason, OSE suggests adding clarifying language to the bill to ensure projects seeking grants are appropriately permitted. The agency recommends language used in Section 72-5A-4 NMSA 1978 specifying that a groundwater storage and recovery project application include a project plan that:

- (a) shows that the project will not cause harm to users of land and water within the area of hydrologic effect;
- (b) demonstrates that the project is hydrologically feasible;
- (c) demonstrates that the project will not impair existing water rights or the state's interstate obligations;
- (d) demonstrates that the project will not be contrary to the conservation of water within the state; and
- (e) demonstrates that the project will not be detrimental to the public welfare of the state.”

CW/hg/ss/cw/ss/ne/ss