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FISCAL IMPACT REPORT

SPONSOR: Heaton DATE TYPED: 03/02/01 HB 643/aHAGC
 SHORT TITLE: Carlsbad Water Rights Mediation SB _____
 ANALYST: Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 200.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act HB2.
 Duplicates SB 560

SOURCES OF INFORMATION

LFC Files
 Carlsbad Irrigation District (CID)
 Department of Finance and Administration (DFA)
 Office of the State Engineer (SEO)

SUMMARY

Synopsis of HAGC Amendment

The House Agriculture and Water Resources Committee amendment strikes “and arbitration” from the bill so that the appropriation can only be used to support mediation pursuant to adjudication of water rights in the Carlsbad Irrigation District.

Synopsis of Original Bill

This bill appropriates \$200.0 from the general fund to DFA for the purpose of contracting with the Carlsbad irrigation district to support mediation and arbitration processes pursuant to adjudications of water rights of individual landowner members.

Significant Issues

The adjudication of water rights in the Carlsbad irrigation district has been on-going for more than 40 years. SEO is concerned that this bill would add an “additional layer of complexity” to a complex and time-consuming adjudication effort. This could further delay the adjudication process. They state that they are already involved in an information mediation of claims and seek to establish

dialogue and compromise to the extent allowed by law. Finally, SEO states that the bill would create a judicial standing for the Carlsbad irrigation district to participate in the subfile proceedings that are on-going between the SEO and the district members.

On the other hand, CID states that SEO is sending district members “intimidating letters telling them to ‘take the States’s offer or we’ll just go to court.’” The members of the district have varied financial status and find the prospect of court proceedings threatening. CID states that they desire a formal mediation process very similar to that ongoing in the adjudications of the Elephant Butte Irrigation District in the lower Rio Grande. CID anticipates that mediation will be less expensive than court proceedings.

FISCAL IMPLICATIONS

The appropriation of \$200.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund. HB 2 has an appropriation for this amount and for the same purpose to SEO.

DUPLICATION

This bill is the same as SB 560.

TECHNICAL ISSUES

To address SEO concerns about giving the Carlsbad irrigation district standing in on-going adjudication efforts, recommend that lines 19, 20, and 21, be amended to read: “with the Carlsbad irrigation district to assist individual landowners in the adjudication of water rights”.

OTHER SUBSTANTIVE ISSUES

DFA states that for the past two years the Local Government Division has managed contracts with acequia association in Northern New Mexico concern water rights adjudications and these contracts could serve as model for similar contracts with the Carlsbad irrigation district.

POSSIBLE QUESTIONS

1. Why does SEO state that the mediation process would introduce “another layer of complexity to an already very complex and time-consuming adjudication”?
2. What specific benefits does CID anticipate as a result of an adjudication process?

GAC/njw:ar