

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/22/13

SPONSOR Martinez, K. LAST UPDATED _____ HB 611

SHORT TITLE Kerr-McGee Water Rights Litigation SB _____

ANALYST McCoy

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
NFI	\$30.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 611 (HB 611) appropriates \$30.0 thousand from the general fund to the Office of the State Engineer to contract in cooperation with the United States for an independent assessment of the settlement potential in subproceeding 1 of the pending water rights litigation styled State of New Mexico ex rel. State Engineer v. Kerr-McGee, et al.

FISCAL IMPLICATIONS

The appropriation of \$30.0 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the general fund.

SIGNIFICANT ISSUES

The AOC reports:

The case of State of New Mexico v. Kerr-McGee, also known as the Rio San Jose water rights adjudication, concerns the determination of water rights to the Rio San Jose which runs

through McKinley, Cibola and Valencia Counties in western New Mexico. Subproceeding 1 of the adjudication concerns the past and present water rights of the Pueblos of Acoma and Laguna. An assessment of the potential for settlement may facilitate settlement of subproceeding 1 prior to a trial, ultimately saving the court and the parties in the litigation time and resources. Including the Pueblos of Acoma and Laguna, in addition to the Office of the State Engineer and the United States, in the selection of the contractor to evaluate the settlement potential may help ensure that the contractor's assessment is accepted by the essential parties to this subproceeding. Also, the U.S. Department of the Interior's Indian Water Rights Office negotiates and oversees implementation of Indian water rights settlements. That Indian Water Rights Office facilitates cooperation between parties to achieve settlements. The respective roles of the Indian Water Rights Office and the selected contractor should be clarified, if they have not been already.

The OSE adds:

While the OSE supports settlement of litigation, it is unclear how this money would be used to assess the potential for settlement of the Pueblos' claims. HB 611 does not include an explanation of the purpose of the independent assessment or what criteria to use to advertise, award, or implement the contract.

ADMINISTRATIVE IMPLICATIONS

The OSE notes, administrative implications would be minimal and would be limited to staff resources necessary to advertise, award, implement, and oversee the contract.

AMENDMENTS

The OSE recommends that the sponsor may wish to amend the bill to be more specific about how the funds are to be used.

MTM/svb