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FISCAL IMPACT REPORT

SPONSOR	<u>SCONC</u>	ORIGINAL DATE	<u>2/4/17</u>	
		LAST UPDATED	<u>3/2/17</u>	HB
				<u>157/SCONCS/</u>
SHORT TITLE	<u>Interstate Stream Commission Membership</u>	SB		<u>aSCONC/aSFI #1</u>
		ANALYST	<u>Armstrong</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			None			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Attorney General's Office (NMAG)
Office of the State Engineer (OSE)

SUMMARY

Synopsis of Senate Floor Amendment

The Senate removed the requirement that the governor and the Legislative Council's appointments be made with the advice and consent of the Senate. The amendment also provides that the Legislative Council shall appoint two, rather than one, members representing irrigation or conservancy districts; replacing the required member representing a nongovernmental conservation advocacy organization. The Senate also removed the requirement that a professional hydrologist member be faculty of the NM Institute of Mining and Technology. Finally, the Senate amendment provides that members appointed under the new framework before January 1, 2018, shall take office immediately.

Synopsis of SCONC Substitute as Amended

The Senate Conservation Committee Substitute for Senate Bill 157, as amended by the same committee, repeals and replaces existing statute regarding the membership and organization of the Interstate Stream Commission (ISC). Under the amended substitute, ISC remains a nine member body with the governor appointing the state engineer and four additional members, no more than two from the same political party, including two representatives of an irrigation or conservancy district, one representative of an acequia or community ditch, and one representative of a drinking water utility that provides at least 500 acre-feet of water annually for domestic use. Four members are to be appointed by the Legislative Council with no more than

two from the same political party, including: one representative of a irrigation or conservancy district; one member from WRRRI or the civil or environmental engineering faculty of NMSU or UNM; one professional hydrologist who is a faculty member at the NM Institute of Mining and Technology or a professional engineer with a New Mexico consulting engineering practice in water resources or water utility engineering; and one representative of a nongovernmental conservation advocacy organization.

No two members shall be from the same irrigation or conservation district or Indian nation, tribe, or pueblo. Additionally, no more than three members shall be from the same congressional district. A change in a member's political party affiliation is treated as that member's resignation from ISC and no individual is eligible for appointment if the individual changed party affiliation in the previous two years.

Each member must have at least 10 years of experience with water resources in New Mexico and would serve a staggered term of four years, however, initial members would be decided by drawing lots-with two serving for one year, two for two years, two for three years, and two for four years. Members may be removed by the appointing authority for missing three consecutive meetings, or for cause.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

ISC is authorized to investigate water supply and to develop, conserve, and protect the waters and stream systems of New Mexico, interstate or otherwise. Current statute only requires that ISC members be "representative of major irrigation districts or sections" of the State, with no two members from the same district or section. This could result in a governor appointing a commission that represents solely agricultural, municipal, conservation, or other interests, as long as the members represent different geographic areas. SB157 prevents such a scenario by ensuring a variety of expertise and perspectives are represented and by allowing appointments by the Legislature as well as the executive. By requiring certain representation on ISC, SB157 broadens the composition of interests on the commission and ensures a variety of expertise will be included in setting water policy.

According to ISC analysis:

Irrigators hold the majority of the senior water rights in the major stream systems across the State. Since 78 percent of the water use in New Mexico is for agricultural purposes, the current statute's membership requirement is very appropriate. Senate Bill 157, however, would provide that, in the future, only three members of the ISC would represent agricultural interests. This proposed change would dramatically reduce the representation of the agricultural sector, and actual water users, on the Commission.

Changing the membership of the Commission would cause significant disruption to the Commission's operations at a time when New Mexico is 1) continuing to deal with major issues related to management of its scarce water resources, including long-term drought conditions in many of its river basins; and, 2) defending significant external threats to

New Mexico's use of its water, including a lawsuit brought by Texas in the United States Supreme Court. The current membership has significant individual expertise across a wide range of water resources issues. This includes decades of experience in irrigated agriculture, ranching, rural water, major municipal water use, mining, oil and gas, and Pueblo water resources management. In addition, current members are well-versed in the details of ISC activities to lessen the impact of the drought on New Mexicans, to proactively address endangered species and water user conflicts, to ensure continued interstate compact compliance, and to manage litigation threats over New Mexico's water. At least 4 of the appointed Commissioners have served on the Commission for the past 14 years, providing continuity across administrations.

Currently, all nine of the members are appointed by the Governor. However, this bill greatly diminishes the authority of the executive to appoint in favor of either legislative appointment or legislative veto power over gubernatorial appointments. Specifically, Sections 1.A.(2) and 1.A.(3) of the bill amend the current process by providing four members of the commission be appointed by the Governor, but only with the advice and consent of the senate, and the other four members are appointed by the New Mexico legislative council, with the advice and consent of the senate.

TECHNICAL ISSUES

Page 4, lines 4 through 7, requires ISC to elect a chair and vice-chair, but is silent on the frequency of the elections.

JA/al/sb