

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 and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)).

## FISCAL IMPACT REPORT

**SPONSOR** Padilla **ORIGINAL DATE** 01/29/20  
**LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_  
**SHORT TITLE** Audit Services For Water Organizations **SB** 70  
**ANALYST** Daly

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	\$2,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB79 and HB111

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the State Auditor (OSA)

Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of Bill

Senate Bill 70 appropriates \$2 million from the general fund to OAS for the purpose of providing audit services to acequias, community ditch associations, land grant-mercedes and mutual domestic associations.

### FISCAL IMPLICATIONS

The appropriation of \$2 million contained in this bill is a recurring expense to the general fund, for expenditure in FY21 and FY22. Any unexpended or unencumbered balance remaining at the end of FY22 shall revert to the general fund.

### SIGNIFICANT ISSUES

OAS advises it will use this \$2 million appropriation to assist the identified local public bodies in becoming compliant with the state's Audit Act. That law requires the financial affairs of every governmental agency be thoroughly examined and audited each year by the OSA or an OSA approved independent public accountant. Compliance with the Audit Act is usually required for

an agency to be eligible to receive capital outlay funding. Risk of noncompliance with the Audit Act due to a lack of financial means can result in agencies such as those listed in the bill not receiving capital outlay or other types of funds.

One example is legislative funding administered by the Interstate Stream Commission (ISC), which requires acequias (like other eligible public bodies) comply with all state audit requirements. OSE reports that this has proven difficult for many acequias. ISC does not have specific statutory authority to provide assistance to acequias to comply with the Audit Act (nor specific statutory authority to ensure acequias so comply). OSE also points out that capital outlay appropriations do not allow an acequia to use funds appropriated for projects to reimburse for independent audit services.

## **RELATIONSHIP**

This bill is related to, and expands both the funding for and coverage of SB79, which appropriates \$250 thousand to the OAS for expenditure only in FY21 to assist only two (i.e. land grant-mercedes and acequias associations) of the four types of local public bodies included in this bill in complying with the Audit Act.

Additionally, this bill is related to HB111, which provides for annual distributions of .05 percent of net gross receipts tax to land grant-mercedes that are in compliance with the Audit Act for unspecified use.

## **OTHER SUBSTANTIVE ISSUES**

In its analysis of SB79, NMAG warns that providing assistance to land grants-mercedes that are not political subdivisions of the state may present an issue under the anti-donation clause of Article IX Section 14 of the New Mexico Constitution. That same issue would arise under this bill.

## **AMENDMENTS**

OSA also notes that, as compliance with the Audit Act is an annual requirement, the benefit to the agencies listed would likely increase if the appropriation was amended to be non-reverting to allow any funding remaining after FY22 to fund this effort beyond that fiscal year. Additionally, OSA suggests expanding the types of agencies that could receive services with the funding provided in this appropriation to include all local public bodies.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Acequias and other local public bodies eligible for funding under this bill will continue to struggle in efforts to comply with state audit requirements, jeopardizing capital project funding and completion. OSA comments that failure to enact this bill will be detrimental to the rural areas of the state, which are in great need of critical capital outlay, but cannot qualify without current audits.

**MD/rl**