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FISCAL IMPACT REPORT

SPONSOR Garcia ORIGINAL DATE 02/19/21
 LAST UPDATED _____ HB 78

SHORT TITLE Tierra Amarilla Traditional Use Land Mgmt. SB _____

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|---------|------------------------------|------------------|
| FY21 | FY22 | | |
| | \$200.0 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|--------------|--------------|---------------------------------|-------------------------|
| FY21 | FY22 | FY23 | | |
| | (\$20,000.0) | (\$20,000.0) | *Recurring | Game Protection Fund |

(Parenthesis () Indicate Revenue Decreases)

*Does not include reimbursements to the federal government. See "Fiscal Implications."

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Game and Fish (DGF)

SUMMARY

Synopsis of Bill

HB78 enacts the Tierra Amarilla traditional use lands management and transfer act to transfer all rights, title, ownership, and management of three State Game Commission properties (the Edward Sargent, William A. Humphries, and Rio Chama wildlife management areas) to the land grant-merced de los Pueblos de Tierra Amarilla on or before January 1, 2028.

Sections 1-4 name the act, provide definitions, and require DGF to obtain surveys, appraisals, and resource inventories, and on or before November 30, 2021, provide a status report to the appropriate legislative committee. In addition, on or before January 1, 2023, in cooperation with

the land grant-merced de los Pueblos de Tierra Amarilla, DGF is to develop a resource management plan for the lands; in 2023 through 2027, provide annual reports to the committee regarding the implementation of the plan; and beginning 2028, turn over that reporting to the land grant-merced.

Section 5 provides that, starting 2023, 20 percent of hunting and fishing permits will go to the land grant-merced; in 2024, 40 percent; and so forth, until 2027 and thereafter, to 100 percent. This section also provides on or before December 31, 2032, and every 10 years after, the land grant-merced will, in consultation with the State Game Commission and EMNRD, report on the plan by November 30 of the following year. The act requires the plan be completed on or before January 1, 2023.

Section 6 appropriates \$200 thousand from the general fund to DGF for expenditures in FY22 and FY23 to implement the provisions of the act, including contracts for surveys, appraisals, and resource inventories for Edward Sargent, William A. Humphries, and Rio Chama wildlife areas.

Section 7 provides that the effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

The one-time appropriation of \$200 thousand contained in this bill is considered a recurring expense to the general fund in that it can be used across two fiscal years. Any unexpended or unencumbered balance remaining at the end of FY23 shall revert back to the general fund.

According to DGF, federal matching funds and state hunting license revenues were used to purchase these properties and support decades of property management. Consequently, the state would be required to reimburse the federal government in excess of \$50 million. These state funds would have to come from sources outside of the game protection fund according to prohibitions in Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669j; 50 Stat. 917) and Section 17-1-28 NMSA 1978. Additionally, DGF would no longer be eligible for its annual apportionment of federal grant matching dollars administered by the Wildlife and Sportfish Restoration Program of the United States Fish and Wildlife Service amounting to at least \$20 million, until the state reimbursed the federal government. These funds represent 50 percent of DGF's operating funds.

SIGNIFICANT ISSUES

The Edward Sargent, William A. Humphries, and Rio Chama wildlife management areas encompass 44,399 acres in northcentral New Mexico and are managed by DGF to conserve wildlife habitat and provide hunting, fishing, and other recreational opportunities for the public.

Properties were purchased using money from the sale of hunting and fishing licenses dollars with the expectation from those user groups the properties would be opened to the public for their use in perpetuity. The allotment of permits or licenses and subsequent transfer to the land grant-merced de los Pueblos de Tierra Amarilla would significantly limit public hunting, fishing, and recreational opportunities on the Rio Chama and in the Humphries and Sargent wildlife management areas.

PERFORMANCE IMPLICATIONS

DGF believes the loss of federal funding would significantly reduce program activities at the department. Currently, federal grants through the Wildlife and Sportfish Restoration Program fund activities that include big game surveys, animal translocations and reintroductions, fish hatchery operations, habitat and watershed restoration, public-access management efforts, hunter education programs, and other wildlife and fish management endeavors across New Mexico.

Furthermore, DGF explained, the transfer of management authority and ownership from the commission to the land grant-merced would significantly reduce the acreage managed for both the benefit of wildlife habitat and public recreational opportunity in northcentral New Mexico. On-going research into the seasonal movements of wildlife has confirmed the importance of these properties to regionally significant habitat and movement corridors for multiple wildlife species.

ADMINISTRATIVE IMPLICATIONS

DGF noted the bill would reduce staff capacity and budget for ongoing research programs.

TECHNICAL ISSUES

DGF reports the act conflicts with Section 17-1-28 NMSA 1978. Under this section, the state assents to the provisions of the Federal Aid in Wildlife Restoration Act, which includes a prohibition against the diversion of license fees for any purpose other than the conservation, investigation, and restoration of wildlife resources and the department's administrative expenses.

HB78 envisions the completion of a property appraisal by FY23 for an ownership transfer in FY28. There is the potential for considerable fluctuations in property valuations between FY23 and FY28. Also, DGF says the appropriation may be insufficient to accomplish the required tasks.

OTHER SUBSTANTIVE ISSUES

According to readings from the Library of Congress website, Spain and Mexico endowed land grants to pioneers who settled in states along the Rio Grande long before the Treaty of Guadalupe Hidalgo ceded the region to the United States at the end of the Mexican American War. Even so, land grant heirs throughout the regional unsuccessfully lost claims to millions of acres as private and communal lands transferred to new owners and the U.S. government.

AHO/al/rl