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FISCAL IMPACT REPORT

SPONSOR Gonzales LAST UPDATED 03/16/2023
ORIGINAL DATE 03/15/2023
SHORT TITLE Importance Of Water In Taos & Questa BILL NUMBER Senate Memorial 69/aSCONC
ANALYST Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			OSE Operating Budget

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Duplicates House Memorial 84

Sources of Information

LFC Files

Responses Received From
Office of the State Engineer (OSE)

SUMMARY

Synopsis of SCONC Amendments

The Senate Conservation Committee amendments to Senate Memorial 69 strike the words “all of which are valid for transfer, change of use and environmental remediation or reclamation” from the first “whereas” clause on page one of the memorial. These changes will resolve some of the concerns expressed by the Office of the State Engineer’s analysis of the original version of the memorial.

Synopsis of Senate Memorial 69

Senate Memorial 69 calls for the Office of the State Engineer to assist the village of Questa, the Questa economic development fund, and neighboring communities in the development of an action plan to access water rights owned by the operators of the Questa mine. The memorial also requests that the Office of the State Engineer assist in the remediation or reclamation of the former Questa mine.

FISCAL IMPLICATIONS

Analysis from the Office of the State Engineer stated that the memorial would have no fiscal impact on the agency. However, the agency’s analysis notes that “participation in a group working on an action plan may require additional staff resources.”

SIGNIFICANT ISSUES

Analysis of the original bill from the Office of the State Engineer expressed concerns with the first “whereas” clause in the memorial which makes a claim about the validity and transferability of water rights that are currently the subject of a contested hearing before the agency. OSE’s analysis explains:

The Water Rights Division of the OSE does not agree that all of the water rights are valid and transferable. The State Engineer, as the ultimate decision maker in the hearing, must refrain from taking any position on this contested issue while the hearing is ongoing. It also seems unusual for a legislative memorial to assert as fact something that is being actively litigated in a hearing.

If Chevron would like the State Engineer to be able to participate personally in the process outlined in this memorial, one option would be for it to withdraw, without prejudice, the applications that are the subject of the contested hearing. That would eliminate the need to screen the State Engineer from discussions regarding the water rights at issue.

OSE’s analysis expressed the agency’s willingness to assist in the development of an action plan related to the transfer of any valid water rights but qualified their support as pending the outcome of the active litigation, stating:

[OSE]... cannot pre-approve any applications for changes to the existing water rights that the village of Questa seeks. Any divestment of existing water rights would need to go through the state engineer application process.

SS/ne/al/rl/hg