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FISCAL IMPACT REPORT

SPONSOR: HJC DATE TYPED: 03/15/01 HB 645/HJCS/aSJC
 SHORT TITLE: Water Rights Mediation & Arbitration SB _____
 ANALYST: Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

SOURCES OF INFORMATION

- LFC Files
- Attorney General (AG)
- Carlsbad Irrigation District (CID)
- New Mexico Acequia Association (NMAA)
- New Mexico Soil and Water Conservation Districts (SWCD)
- Office of the State Engineer (SEO)

SUMMARY

Synopsis of SJC Amendment

This amendment removes “or acequias” throughout the bill. The effect is that the proposed statute will only pertain to water rights determinations with members of an irrigation district.

Synopsis of Original Bill

This bill enacts a new section in NMSA 1978 concerning good faith negotiations and mediation in the determination of water rights. It requires that in determination of a water right with individual members within an irrigation or conservancy district or acequia, SEO will participate with the district or acequia to acquire and develop technical information that could assist in determining the water rights of the individual claimants including the comparison of hydrographic surveys with tax assessments and water delivery records. It requires SEO to engage in good faith negotiations with the claimants. Persons with technical expertise or witnesses may participate but this will not be construed as granting standing to these participants or the districts or acequia. Only SEO and the individual subfile claimant will have standing except as provided by law. SEO is not prevented by the statute to enter into mediation with the claimant during or at the conclusion of informal negotiations.

Significant Issues

This substitute bill addresses the issues raised by SEO and AG in their analysis of the original bill. It does not change the adjudication process for final determination of water rights but allows for informal and/or mediation processes if the parties concur prior to formal legal proceedings. The bill specifically states that districts and acequias or other expert witnesses have no standing in judicial proceedings which was a concern of SEO in their critique of the original bill. Beneficial use will still be the basis, the measure, and the limit of a water right.

NMAA and SWCD should support the aims of the bill because it serves to protect the intent of the original bill which was to provide for involvement by district officials to assist individual landowners in dealing with water rights issues with SEO. In addition, the process of informal negotiations and mediation may speed water rights adjudications by resolving issues outside the judicial process.

FISCAL IMPACTS

While there are no direct fiscal impacts in this bill, there may be added costs to SEO in providing technical materials to subfile claimants and irrigation or conservancy districts and acequias. Costs will be incurred in the mediation effort; however, these may be less than would have occurred in formal judicial proceedings should the informal or mediation efforts be successful.

DUPLICATION

This bill is same as SB 561 as substituted by the Senate Judiciary Committee.

TECHNICAL ISSUES

The bill does not specify where the new statute will be located in NMSA 1978.

POSSIBLE QUESTIONS

1. SEO, AG, NMAA, and SWCD representatives should be asked if this substitute bill addresses their concerns with and the intent of the original bill.

GAC/njw:ar