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FISCAL IMPACT REPORT

SPONSOR: Wright DATE TYPED: 02/12/02 HB 444
 SHORT TITLE: Extend Water Planning to State Land Office SB _____
 ANALYST: Dotson

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 443

SOURCES OF INFORMATION

Office of the State Engineer (OSE)
 State Land Office (SLO)

SUMMARY

Synopsis of Bill

HB 444 simply amends Section 72-1-9 NMSA 1978 to extend to the State Land Office the same requirements and benefits as other recognized entities in forty-year water planning.

Significant Issues

The State Land Office would join municipalities, counties, state universities, member-owned community water systems, municipal water users' associations and public water utilities serving municipalities and counties as an entity that may hold water rights unused for a forty-year period.

The State Land Office will be in competition with other entities private and public for control of water rights.

FISCAL IMPLICATIONS

The State Land Office will be able to receive higher lease payments if it can secure water rights for leased lands. However, this increase in direct payments to the State should be balanced with the negative effect the changes will have on other recognized entities in attracting economic development projects due to the increased competition for water rights.

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According to the State Land Office, an appropriation is needed to pay the costs of developing and implementing the water planning provided for in this bill.

ADMINISTRATIVE IMPLICATIONS

According to the State Engineer, no additional FTE requirements are anticipated to perform this review although it will command additional staff time.

According to the State Land Office, the basic impact of this Bill would be to enable the State Land Office, in appropriate circumstances, to make greater use of, and derive greater value from, certain state trust lands by engaging in long-term water planning. Additionally, if the development of a forty-year water plan under Section 72-1-9 is mandatory, the amendment contained in this Bill would impose an unfunded mandate unless it is accompanied by an appropriation sufficient to pay the costs of the water planning provided for in this bill.

TECHNICAL ISSUES

According to the State Land Office, some editorial improvements could be made to existing language in Section 72-1-9 to clarify its meaning. Referring to the text of Section 72-1-9 contained in this Bill: (a) a comma needs to be placed after the word “associations” on page 1, line 25 and page 2, lines 11 and 16 to make clear that the subsequent phrase “supplying water to municipalities and counties” modifies only “public utilities”; (b) all of Subsection B is one long sentence which is difficult to understand; for example, at page 2, line 21, the words “development plan or for preservation. . .”, the conjunction “or” is confusing in that it is not clear whether it should be eliminated (making the phrase “development plan for. . .”) or whether it indicates that “preservation of . . .etc.” is the third in a series of things which can be applied for (i.e. beginning at page 2, line 20, “the application for (a) an appropriation, or (b) a change of place. . .water development plan, or (c) for preservation of. . .etc.”).

According to the State Land Office, it is not clear from the existing language in Subsection B of Section 72-1-9 whether the State Land Office would be *required* to develop a forty-year water plan or if this would be permissive. Therefore, it would benefit the State Land Office if the existing language of Subsection B were amended, along with the amendments proposed in this bill, to clarify that engaging in a forty-year water plan is permissive rather than mandatory. Additionally, it is not clear from the existing language in Subsection B of Section 72-1-9 whether there are separate planning and implementation periods, what the lengths of any planning and implementation periods are, and when these periods begin to run. It would benefit the State Land Office if the existing language of Subsection B were amended along with the amendments proposed in this Bill, to clarify the nature, length and commencement date of the implementation and planning periods provided for in Subsection B.

POSSIBLE QUESTIONS

Is the public welfare and economic development promoted better under the current system or with the State Land Office competing with public and private entities for water rights?

PD/ar/njw