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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/06

SPONSOR Nuñez LAST UPDATED 1/27/06 HB 136/aHAGC

SHORT TITLE State Engineer Water Masters SB _____

ANALYST Lewis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	1,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

Department of Finance and Administration (DFA)

SUMMARY

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

Synopsis of HAGC Amendment

As recommended by the Office of the State Engineer (OSE), the House Agriculture and Water Resources Committee amendment allows the appropriation to be expended over multiple years, without reversion, and provides for the employment of water masters for two-year periods to facilitate the implementation of active water resource management throughout New Mexico until the positions are either made permanent or funded pursuant to Section 72-3-4 NMSA 1978.

Synopsis of Original Bill

House Bill 136 appropriates \$1,000,000 from the general fund to the Office of the State Engineer to pay the costs of employing water masters for the administration of the Active Water Management Program.

FISCAL IMPLICATIONS

The appropriation of \$1,000,000 contained in this bill is a recurring expense to the general fund.

Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

However, the Office of the State Engineer (OSE) argues that unexpended and unencumbered funds remaining at the end of FY 2007 should not revert to the general fund, but should be available to the state engineer for expenditure in subsequent fiscal years to pay the costs of employing water masters in term positions for two-year periods to facilitate the implementation of Active Water Resource Management (AWRM) throughout New Mexico, until the positions are either made permanent or funded pursuant to the provisions of NMSA 1978, § 72-3-4.

SIGNIFICANT ISSUES

According to the OSE, the funding of water masters within AWRM will support the Governor's priority policy initiative as identified in the latest Moving New Mexico Forward update of Protecting Our Water and the Environment by strengthening the state's long-term water resource planning capabilities and by conserving ground water resources.

OSE notes that recent droughts, increasing population, compact requirements with other states and litigation involving water have created a strain on New Mexico's water resources. Water administration is required to maintain proper distribution of water to senior water rights owners, cities, towns, villages, industrial uses, agricultural and all water users within the state.

According to the OSE, the drought that New Mexico has been experiencing over the past several years is likely to continue, increasing the need for water master oversight of the distribution and use of precious water resources. New Mexico is obligated to meet its compact deliveries on several river systems throughout the state. The cost to the state of not meeting these obligations would be enormous. In some instances, New Mexico could even lose control of its water to the federal government through Supreme Court action.

According to the Department of Finance and Administration (DFA) the OSE is in the process of implementing AWRM in seven priority basins where the potential for water shortage is particularly acute. AWRM involves metering and enforcing water use. In order to administer the initiative, the OSE will need to deploy water masters in each basin to monitor water use and manage available water resources, to enforce water rights and to insure that interstate delivery requirements are met.

DFA notes that the timing of the appropriation is appropriate, because the agency anticipates having a number of water meters and the other resources necessary to implement AWRM in place in the priority basins by FY07, at which point staffing the water positions would be the final step. Based upon rough agency calculations of \$90,000 per water master, this appropriation could fund up to ten positions, including overhead costs.

PERFORMANCE IMPLICATIONS

OSE notes that the appropriation proposed in this bill will fund the costs of providing water masters required under the AWRM Program for a one-year period. This will allow hiring of water masters and beginning the training process.

According to DFA, OSE performance is monitored by General Appropriation Act performance

measures pertaining to the readiness to implement AWRM in three of seven identified priority basins. Assuming that this appropriation is used to fund water master positions in the three basins covered by the measures, the agency's performance measurement would improve.

TECHNICAL ISSUES

According to the DFA, under modified accrual accounting (Section 6-5-10(A) NMSA 1978), the reversion language should read "Any unreserved undesignated balance remaining at the end of fiscal year 2007 shall revert to the general fund."

ALTERNATIVES

DFA notes that the counties could be billed to pay for all or part of the positions. However, there has been resistance to this approach; and a number of counties do not have the financial ability to fund these positions.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to DFA, OSE would have to either

- assess the counties for the cost of water master positions to move forward with AWRM, which it has the authority to do; or
- (less likely) delay the implementation of AWRM.

However, OSE argues that it is essential that the State Engineer be able to hire water masters when the need arises and for those areas deemed most critical without having to be dependent upon affected counties to come up with the funding. Obtaining funding from counties – through assessments for water rights – could take a year or more.

AMENDMENTS

OSE suggests:

- 1) After 2007 in line 19, insert "and subsequent fiscal years".
- 2) After the word masters in line 19, insert "in term positions for two (2) year periods to facilitate the implementation of Active Water Resource Management throughout New Mexico, until the positions are either made permanent or funded pursuant to the provisions of NMSA 1978, § 72-3-4". Strike out the remainder of the original text to the end of the document.

As amended, the bill would read:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One million dollars (\$1,000,000) is appropriated from the general fund to the office of the state engineer for expenditure in fiscal year 2007 and subsequent fiscal years to pay the costs of employing water masters in term positions for two (2) year periods to facilitate the implementation of Active Water Resource Management throughout New Mexico, until the positions are either made permanent or funded pursuant to the provisions of NMSA 1978, § 72-3-4