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FISCAL IMPACT REPORT

ORIGINAL DATE
SPONSOR HAGC **LAST UPDATED** 2-10-06 **HB** 163/HAGCS

SHORT TITLE Allow Certain Water Rights Transfers **SB** _____

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

The House Agriculture & Water Resources Committee substitute to House bill 163, relating to water, seeks to enact a new section of Chapter 72, Article 12, NMSA 1978 and a new section of Chapter 73, Article 1 NMSA 1978 to provide conditions for water rights transfers out of an artesian conservancy district.

The legislation carries no appropriation language.

SIGNIFICANT ISSUES

In Section 1, the legislation seeks to enact a new section of Chapter 72, Article 12 NMSA 1978 as follows:

"[NEW MATERIAL] ARTESIAN CONSERVANCY DISTRICTS--CHANGES IN POINT OF DIVERSION OR PLACE OF USE.--

A. The state engineer shall not approve an application for a change, including an emergency change, in point of diversion or place of use of a ground water right from within an artesian conservancy district organized pursuant to Chapter 73, Article 1 NMSA 1978 to a point of diversion or place of use outside the boundaries of the district if the applicant has not complied with the applicable requirement adopted by the district pursuant to law.

B. The applicant for a change described in Subsection A of this section shall submit with the application to the state engineer documentary evidence provided by the artesian conservancy district of the applicant's compliance with any applicable requirement for the change adopted by the district pursuant to law.

C. If an artesian conservancy district has not adopted an applicable requirement, the applicant shall submit to the state engineer along with the application an affidavit provided by the district stating this fact.

D. If the artesian conservancy district fails to make a decision within one hundred twenty days in response to an applicant's request for approval pursuant to an applicable requirement, the district shall be deemed to have approved the applicant's request for approval and the state engineer shall proceed on the application as if the applicant had complied with any applicable artesian conservancy district requirement.

E. Water rights purchased and transferred by the interstate stream commission are not subject to the requirements of this section."

In Section 2, the legislation additionally seeks to enact a new section of Chapter 73, Article 1 NMSA 1978 as follows:

"[NEW MATERIAL] BOARD OF DIRECTORS--ADDITIONAL DUTIES-- APPROVAL OF CHANGES IN POINT OF DIVERSION OR PLACE OF USE OF GROUND WATER RIGHTS.--

A. Pursuant to bylaws duly adopted by the district, a district may require that a change in point of diversion or place of use of a ground water right from within an artesian conservancy district to a point of diversion or place of use outside the boundaries of the district shall be subject to approval by the directors of the district. The request for director approval shall be in writing and delivered by certified mail to the district. The directors may deny the change only if they determine that the proposed change would be detrimental to the district or its members. The directors may require as a condition of approval that the owner of the transferred water right be assessed as though the water right remained appurtenant to the land as previously assessed for levy and collection of fees due to the district. The directors shall render a written decision setting forth the reasons for their decision. The person proposing the change or a member of the district may appeal the decision of the directors to the district court of the county within which the district is located within thirty days of receipt of notice of the decision by the person proposing the change. The district court may set aside, reverse or remand the decision of the directors if it determines that the directors acted fraudulently, capriciously, arbitrarily or contrary to law.

B. Nothing in this section shall be construed as authorizing changes in the point of diversion or place of use of ground water rights not otherwise permitted by law.

C. Water rights purchased and transferred by the interstate stream commission are not subject to the requirements of this section."

BW/yr