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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/06
 LAST UPDATED 2/8/06 HB 611/aHAGC

SPONSOR Gonzales

SHORT TITLE Taos Valley Water Rights Acquisition SB _____

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$500.0	Non-recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Senate Bill 529.

Relates to Senate Capital Outlay Request 507 and Senate Capital Outlay Request 889.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

Department of Finance and Administration, State Budget Division (DFA)

SUMMARY

Synopsis of HAGC Amendment

House Bill 611 as amended by the House Agriculture and Water Resources Committee incorporates the following changes: (1) the appropriation is made to the Indian water rights settlement fund, (2) the appropriation does not revert and may be spent in fiscal year 2007 or any subsequent fiscal year, and (3) the purpose is specified as water rights acquisition for the non-Indian portion of the Pueblo of Taos water rights settlement.

Synopsis of Original Bill

House Bill 611 appropriates \$500,000 to the Interstate Stream Commission (ISC) to match federal and local funding for water rights acquisition for the non-Indian portion of the settlement of the Taos Valley water rights adjudication.

FISCAL IMPLICATIONS

The appropriation of \$500,000 is a non-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.

SIGNIFICANT ISSUES

This line-item proposal was not in the Executive budget recommendation or in the LFC's appropriation recommendations.

The Office of the State Engineer receives appropriations for the purposes of acquiring water rights and entering into litigation to settle water rights. It has the statutory authority to acquire water rights and enter into settlements of water rights.

The Office of the State Engineer provided the information below.

The State of New Mexico, Taos Pueblo, the Town of Taos, the Taos Valley Acequia Association on behalf of the Taos area acequias, twelve Taos area mutual domestic water consumer associations, and El Prado Water and Sanitation District have been actively negotiating the terms of a proposed settlement of the water right claims of Taos Pueblo since late 2003. These negotiations are subject to a confidentiality order issued by the federal district court, and no proposed settlement agreement or agreed-upon settlement cost projections have yet been released to the public. In the absence of any costs projections provided by the negotiating parties, the OSE estimates that if a settlement is reached the state's share of the costs to implement the settlement could reach \$20 million.

Even if a proposed settlement is announced soon, it still would need to be approved by congress and the legislature. The state therefore is unlikely to be obligated to provide any funds to implement a settlement before the end of FY 2007, when the funding in this bill would revert to the general fund. The bill therefore would better serve the state's interests in promoting a settlement if it were amended to appropriate the monies to a Taos settlement sub-account in the Indian water rights settlement fund (IWRS fund), which was created by the 2005 legislature (Laws 2005, Ch. 172) to provide a mechanism for the state to fund its portion of the costs of implementing Indian water rights settlements. The 2005 legislature created the IWRS fund because such settlements typically take years to develop and implement. That 2005 legislation therefore provides that money appropriated to the IWRS fund does not revert to the general fund. The ISC administers the IWRS fund, and upon a joint resolution by the legislature the ISC may expend money in that fund to pay the state's share of the costs of implementing a settlement. Amending this bill to make the appropriation to a sub-account in the IWRS fund for the Taos Pueblo water rights settlement would ensure that the appropriated funds would be available when needed to implement the state's share of a settlement with Taos Pueblo.

DUPLICATION AND RELATIONSHIP

Senate Bill 529 is a duplicate of this bill.

Senate Capital Outlay Requests 507 and 889 each contain appropriations in the amount of

\$499,000 to the Office of the State Engineer to purchase water rights in Taos valley for acequia associations in Taos County.

TECHNICAL ISSUES

It is unclear to what extent the ISC would be involved in any transactions to acquire water rights for the settlement with these funds. If the ISC itself were the entity acquiring water rights, then there would be an impact on the ISC in terms of staff time necessary for such transactions.

ALTERNATIVES

It may be the case that non-Indian water rights will not be settled independently of the litigation related to the claims of Taos pueblo. As the Office of the State Engineer stated in “SIGNIFICANT ISSUES,” the bill would better serve the state’s interests in promoting a settlement if it were amended to appropriate the monies to a Taos settlement sub-account in the Indian water rights settlement fund (IWRS fund), which was created by the 2005 legislature (Laws 2005, Ch. 172) to provide a mechanism for the state to fund its portion of the costs of implementing Indian water rights settlements.

CH/yr