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FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED 2-6-06 **HB** _____

SPONSOR Cisneros _____

SHORT TITLE Taos Valley Water Rights Acquisition **SB** 529 _____

ANALYST Woods _____

APPROPRIATION (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 611

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer-Interstate Stream Commission (OSE)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 529 seeks to appropriate \$500,000 from the general fund to the Interstate Stream Commission for expenditure in fiscal year 2007 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. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

SIGNIFICANT ISSUES

The Office of the State Engineer-Interstate Stream Commission (OSE) indicates that 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 ab-

sence 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.

OSE adds that 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 (2005 N.M. Laws, 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.

ADMINISTRATIVE IMPLICATIONS

OSE notes that 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.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HB611.

ALTERNATIVES

OSE suggests that the \$500,000 might be appropriated to a sub-account in the Indian water rights settlement fund for the Taos Pueblo water rights settlement. [See proposed amendments below].

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Funding for the state's share of the costs of implementing a Taos Pueblo water rights settlement will need to be obtained from other sources.

AMENDMENTS

As suggested by OSE:

On page 1, lines 16 through 17, strike "the interstate stream commission" and insert in lieu thereof "a sub-account in the Indian water rights settlement fund for the Taos Pueblo water rights settlement".

On page 1, line 18, after "2007" insert "and subsequent fiscal years".

On page 1, lines 19-20, strike “settlement of the Taos valley water rights adjudication” and insert in lieu thereof “Taos Pueblo water rights settlement”.

On page 1, line 21, after “of” insert “a”, and strike “2007”.

On page 1, line 22, after “shall” insert “not”.

BW/yr