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FISCAL IMPACT REPORT

ORIGINAL DATE 2-08-07
 LAST UPDATED 2-24-07 HB 811/aHAGC

SPONSOR Ezzell

SHORT TITLE Allowable Diversions and Water Losses SB _____

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

New Mexico Department of Agriculture (NMDA)

SUMMARY

Synopsis of HAGC Amendment

House Agriculture and Water Resources Committee amendment to House Bill 811 amends Section 73-1-27 NMSA 1978, which, OSE notes, provides that within artesian conservancy districts in addition to the established duty of water for irrigation an additional two acre-inches of water per year per acre-foot of an established water right to compensate for carriage loss, to provide that subsequent improvements in the efficiency of the carriage of water shall not operate to cause a reduction in the allowable diversion of water. The amended bill strikes language in the original bill providing that subsequent improvements in the efficiency of the *application* of water would not operate to cause a reduction in the allowable diversion of water.

OSE adds that HB 811, as amended, will allow a water rights owner within an artesian conservancy district, such as Pecos Valley Artesian Conservancy District (PVACD), to utilize a more efficient method of conveyance, such as an enclosed piping system or lined ditches, and retain the right to divert an additional two acre-inches of water per year for each acre-foot (carriage loss allowance) of an established water right even though there are no longer any carriages issues.

There is no appropriation attached to this amendment.

Synopsis of Original Bill

House Bill 811 seeks to amend Section 73-1-27 NMSA 1978 (being Laws 1971, Chapter 53, Section 1) to read:

73-1-27. CARRIAGE LOSS ALLOWANCE ESTABLISHED. – In addition to the duty of water for irrigation within any artesian conservancy district established under the provisions of Sections 73-1-1 through 73-1-26 NMSA 1978, there shall be, as a matter of right, an additional two acre-inches of water per year per acre-foot of an established water right to compensate for carriage loss between the point of appropriation and the point of beneficial use. A subsequent improvement in the efficiency of the carriage or application of water shall not operate to cause a reduction in the allowable diversion of water." The effective date of the provisions of this act is July 1, 2007.

There is no appropriation attached to this legislation.

SIGNIFICANT ISSUES

NMDA notes that this bill protects the allowable diversion of water by artesian conservancy district irrigators in the event that an irrigator makes improvements that result in greater efficiency in carriage or application of water. Further, that this protection may encourage irrigators to make improvements through the use of various water efficiency technologies if the allowable diversions are not reduced as a result of said application of efficiency technologies. NMDA further suggests that, if HB811 is not enacted, irrigators in artesian conservancy districts who make improvements that result in greater efficiency in carriage or application of water may not be clearly protected in terms of a possible reduction in the allowable diversion of water.

OSE interprets the bill as amending Section 73-1-27 NMSA 1978, which provides that within artesian conservancy districts in addition to the established duty of water for irrigation an additional two acre-inches of water per year per acre-foot of an established water right to compensate for carriage loss, to provide that subsequent improvements in the efficiency of the carriage or application of water shall not operate to cause a reduction in the allowable diversion of water. OSE adds that the bill will allow a water right owner within an artesian conservancy district, such as Pecos Valley Artesian Conservancy District (PVACD), to utilize more efficient irrigation practices such as an enclosed piping system or lined ditches and retain the right to divert additional two acre-inches of water per year for each acre-foot (carriage loss allowance) of an established water right even though there are no longer any carriages issues. Specifically, OSE states:

The additional 2 acre-inches of water per acre-foot of an established water right currently provided for by Section 73-1-27 NMSA 1978 compensates for carriage loss between the point of appropriation interpreted as point of diversion and the point of beneficial use. The additional water was provided to insure that an irrigator would be able to apply sufficient water to his crop without having to suffer conveyance losses. If this amount of water is no longer needed to compensate for conveyance losses because of more efficient water conveyance systems, there is no need or reason to continue to allow diversion of this additional amount. The farm delivery requirement (duty) and the consumptive irrigation requirement will be met without the additional "carriage loss" water.

OSE concludes that:

It appears that if HB 811 were enacted, increased depletions of water within artesian conservancy districts are likely to result because carriage losses that currently returns to the aquifer would instead be consumptively used causing new depletions in the very nature that contributed to the United States Supreme Court's decision that NM's increased depletions deprived Texas of its share of the Pecos River. This could affect the State's ability to meet its interstate compact obligations on other rivers and reduce the effectiveness of the Pecos River CID settlement and water right acquisition program.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OSE suggest that, presently, the water right owner retains the carriage allowance for irrigation purposes and best prevents new depletions to the fully appropriated surface waters of compacted interstate rivers.

BFW/nt