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## FISCAL IMPACT REPORT

SPONSOR Altamirano ORIGINAL DATE 1-24-07 HB \_\_\_\_\_  
 LAST UPDATED \_\_\_\_\_  
 SHORT TITLE Beneficial Use of Gila River Water SB 228  
 ANALYST Woods

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	4,600.0	Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)

Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of Bill

Senate Bill 228, Making an Appropriation for Beneficial Use of Gila River Water Pursuant to the Arizona Water Settlements, seeks to appropriate \$4,600,000 from the general fund to the Interstate Stream Commission (ISC) for expenditure in fiscal years 2008 through 2014 to comply with the requirement in the 2004 Arizona Water Settlements Act to consider the impacts to endangered species and the environment, protect the invaluable ecology of the Gila river basin in New Mexico and create by 2014 a plan that maximizes beneficial use of New Mexico's water pursuant to that act. The legislation further requires that the ISC make annual reports to the appropriate interim committee of the legislature on the status of planning resulting from this appropriation. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the general fund.

### FISCAL IMPLICATIONS

DFA notes that the fiscal implications to the State could potentially be substantial on both the appropriation side and revenue sides. While it is unclear whether the amount appropriated in the act would over- or under-fund the total eventual outlay required of the state to fully leverage federal funds made available as a result of the Arizona Water Settlement, completion of a plan

that successfully addresses federal requirements would result in availability beginning in 2012 of at least \$66.0 million federal dollars with the possibility of up to \$128.0 million additional federal funds. Further, that, under modified accrual accounting (Section 6-5-10(A) NMSA 1978), reversion language should read “Any unreserved undesignated balance remaining at the end of fiscal year \_\_\_\_\_ shall revert to the general fund.” Using language that includes the term “unencumbered” could unnecessarily extend spending authority beyond the designated fiscal year and result in projects not being completed within the timeframe intended in the bill.

## **SIGNIFICANT ISSUES**

OSE notes that, in 1964, the US Supreme Court limited depletions in the Gila Basin in New Mexico to approximately 30,000 acre-feet, the amount of water in use at that time in the entire basin. There was no provision to provide water for future demand or the inevitable growth. In the 2004 Arizona Water settlements Act (S.437), Congress apportioned an additional 14,000 acre-feet of water to New Mexico. The 2004 Act also appropriated up to \$128 million in non-reimbursable federal funding to make development of the 14,000 acre-feet of water possible. New Mexico will not be able to access that funding until 2012, in \$6.6 million annual increments. To realize the funding and the water, the federal legislation requires that by 2014 New Mexico must present to the Secretary of the Interior a plan that describes how New Mexico wishes to utilize the funding and water. That plan must comply with all federal environmental statutes, an onerous and time-consuming task. If New Mexico cannot provide the Secretary with an acceptable plan by 2014, use of the water and \$62 million effectively revert to Arizona.

OSE adds that because completing the plan by 2014 is not possible if New Mexico waits until 2012 to receive the first installment of the federal funds, New Mexico must begin funding the necessary environmental studies and full public involvement activities immediately. This appropriation will allow completion of the necessary work within the statutory deadlines. If, as Arizona anticipates, New Mexico fails to complete the work necessary to realize and optimize the enormous benefits received in the 2004 Act, there will be no water supplies to accommodate or provide for future growth, and the economic repercussions in this chronically under-employed region of the state and the probable detrimental impacts on the valuable Gila ecology would be great.

## **PERFORMANCE IMPLICATIONS**

DFA suggests that agency performance implications are hard to anticipate. Pursuing the path of developing a plan to use the Gila River water and fully leverage the federal funds made available would result in development of more water for use in New Mexico, which may improve the outlook for water management in the southwest corner of the state. However, a greater availability of water may not necessarily result in better agency water management performance.

DFA further observes that there may be physical challenges to developing the Gila River water for existing population center, and that there is not absolute consensus or certainty about whether it is possible to develop a plan for human use of the water that could meet federal environmental mandates. The agency reports it can. However, if unsuccessful, it is possible that the funds appropriated in this bill could fail to result in a quantifiable benefit to the state.