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FISCAL IMPACT REPORT

ORIGINAL DATE 2/18/09
 LAST UPDATED 2/18/09 HB _____

SPONSOR Papen

SHORT TITLE Water Rights Adjudication Public Meetings SJM 3

ANALYST Haug

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	None		

(Parenthesis () Indicate Expenditure Decreases)

*See Narrative

Companion to SB 50

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

Department of Agriculture (NMDA)

Office of the State Engineer (OSE)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 3 requests that the Institute of Public Law at the University of New Mexico convene public meetings to facilitate education and solicit comments regarding alternatives for reform of water right adjudication procedures in New Mexico. Referring to the joint research performed by staff from the Administrative Office of the Courts and the Office of the State Engineer, the memorial calls for public presentation and analysis of the various adjudication procedures employed by other western states. Stakeholders, including water right claimants, will be affected by the adoption of new procedures for determining water rights.

Some stakeholders have expressed concerns about possible adjudication reforms. SJM 3 calls for the public meetings to educate stakeholders about different approaches to water right adjudications, and identify the concerns, ideas, and other responses of the public to the various approaches. SJM 3 also provides that the public meetings should include interested members of the public and representatives of key organizations, such as conservancy districts, irrigation

Senate Joint Memorial 3 – Page 2

districts, acequias, tribes, pueblos, and water attorneys.

At the completion of the public meeting process, SJM 3 directs the Institute of Public Law to prepare an objective written report that presents a balanced view of the adjudication alternatives discussed at the meetings. The report shall include the concerns and ideas expressed by participants during the meetings.

FISCAL IMPLICATIONS

While Senate Joint Memorial contains no appropriation, the AOC notes that Companion bill SB 50 appropriates \$50,000 for the public meetings. The AOC anticipates that additional funding may be necessary to support the professional design of the public meetings, preparation of adjudication alternatives, preparation of educational materials, administrative costs (travel, facilities), meeting facilitation, and generation of the final report.

SIGNIFICANT ISSUES

The AOC notes that Stream adjudication reform could have a significant future effect upon court resources and water court operations.

The OSE states that on page 2, lines 8-14, the memorial inaccurately suggests that the Administrative Office of the Courts (AOC) and the Office of the State Engineer (OSE) jointly identified issues associated with the adjudication of water rights and possibilities for reforming adjudication procedures. In fact, the joint work of the AOC and OSE was never concluded. Any identified issues and possibilities for reform that were presented to the Interim Water and Natural Resources Committee in October and November, 2008 were the product of the AOC alone.

The NMDA states:

SJM 3 addresses a need for public outreach in the water right adjudication reform process, as identified by groups such as the New Mexico acequia association in their November 24, 2008 report to the interim water and natural resources committee. SJM 3 has the potential to create an intimidation factor in a public setting, which is an issue previously discussed in relation to outreach efforts made by the OSE during adjudication processes. This factor may be reduced through the facilitation by the institute of public law. Water rights adjudication stakeholders such as claimants may not take advantage of an open forum setting with the presence of OSE staff, professional engineers, and attorneys. Yet, the latter group's presence at public meetings may prove to be useful in producing effective discussions on legal and professional capabilities.

SJM 3 directs the institute of public law to disseminate information on alternative approaches to water rights adjudications. It is evident, from an OSE quarterly report on the efforts of the AOC/OSE working group dated October 24, 2008, that disagreement exists between AOC and OSE on the proposed alternative approaches to water rights adjudication reform. It would be critical for the institute of public law's purpose for the AOC/OSE working group to resolve the differences in proposed reform approaches before presenting to the public.

SJM 3 directs the institute of public law to identify public concerns and points of view

Senate Joint Memorial 3 – Page 3

related to alternative adjudication reform proposals. One common public concern is that the public's point of view may not be taken into consideration when decisions are made. The New Mexico department of agriculture supports public outreach efforts for water rights adjudication reform in hopes that stakeholder concerns are taken into consideration.

The New Mexico department of agriculture would suggest it is included as a member of any board that is set up as a result of the legislation to ensure agricultural interests and views are represented in the process.

COMPANIONSHIP

Senate Joint Memorial 3 is a companion to Senate Bill 50 which would appropriate \$50.0 for the public meetings.

GH/mt:mc