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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/13

SPONSOR Papen LAST UPDATED _____ HB _____

SHORT TITLE Removal of Land from Watershed Districts SB 283

ANALYST Hartzler-Toon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)
 Office of the State Engineer (OSE)
 State Land Office (SLO)
 County Clerks Office

SUMMARY

Synopsis of Bill

Senate Bill 283 would amend the Watershed District Act for the purposes of allowing the removal of lands from watershed districts or discontinuing watershed districts.

FISCAL IMPLICATIONS

While this bill does not contain an appropriation, there may be impacts on state agencies charged with protecting watersheds, providing flood control, etc.

SIGNIFICANT ISSUES

The bill's provisions are summarized below.

Section 1. Allows for landowners "whose lands do not contribute to" a water district's purpose may petition the Board of Supervisors to have the lands withdrawn and removes the requirement of the board to hold a hearing within 30 days of receiving the petition.

Section 2. Allows a majority of landowners within a watershed district to petition the Board of Supervisors to discontinue the watershed district if all obligations of the district have been met. Current law requires a minimum of 25 landowners, or fewer if there are less than 50 landowners in the watershed district, for a discontinuance petition to be filed.

The NMDA states that

Watershed districts are formed for the purpose of conservation of water or of water usage, including water-based recreation, flood prevention, flood control, erosion prevention and control of erosion, and floodwater and sediment damages. The land area in a watershed district must be contiguous and must lie within a well-defined watershed area or subwatershed areas; and it may embrace lands lying in one or more soil and water conservation districts or lands lying partly within and partly outside a soil and water conservation district. There are seven active watershed districts in New Mexico, each of which have mil levies in place to provide funding for maintenance and operation of flood control structures that protect farm land and residential areas.

The Act as written, allows for landowners that believe their properties have not been, are not, and cannot benefit from inclusion in the district to request a hearing before the Board of Supervisors to have their land withdrawn. The cost of these hearings can be significant and must be paid for by the district. If landowners can prove no benefit, the levy from their lands will no longer be assessed by the district.

The OSE notes further that watershed districts have experienced a loss in members when obligations have been incurred by the district. As members leave the district, the burden of the district's obligations fall to remaining members. To protect watershed district members, SB283 restricts the reduction in members when the land in the district contributes to the district's purpose, so the burden rests appropriately with those whose land benefits from the watershed district obligations.

ADMINISTRATIVE IMPLICATIONS

The bill allows for discontinuing watershed districts where obligations have been met, such obligations refer to flood control structures. If a district is discontinued, such infrastructure would need to be decommissioned or its responsibilities, liabilities, and operational costs be assumed by another entity. There are costs associated with both options, but if structures are removed, farmland and residential areas are left unprotected from floodwater and sediment.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Current law makes it relatively easy, though at a cost to the individual landowner, for landowners to detach their land from watershed districts and discontinue their district to avoid payment of obligations incurred while the landowner was a district member. As watershed district membership declines, remaining members are left with an increasing share of the burden of the district's obligations.

THT/bm