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FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/13
 SPONSOR SJC LAST UPDATED 03/08/13 HB _____
 SHORT TITLE Adequate Subdivision Water Supplies SB CS/CS/479/aSFI#1
 ANALYST McCoy

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

Attorney General’s Office (AGO)

SUMMARY

Synopsis of SFI Amendment #1

The Senate Floor amendment #1 to the Senate Judiciary Committee substitute for the Senate Conservation Committee substitute for Senate Bill 479 clarifies what is meant by “subdivision of land from which the water rights attached to the land have been severed” in the bill. It does so by creating two new subsections specifying that provisions in the Act “shall apply only to land from which irrigation water rights that are appurtenant to that land are severed after the effective date of this section.”

SB 479 carries an emergency clause, so the amendment will affect subdivisions approved on or after the date the bill is signed by the governor, but will not apply to subdivisions created before that date.

Synopsis of Original Bill

SECTION 1. Senate Bill 479 adds a new section of Chapter 3 (Municipalities), Article 20 (Subdivisions) NMSA 1978 that requires:

Before approving the final plat for a subdivision of land from which the water rights attached to the land have been severed, the sub-divider must provide proof of a service commitment from a

water provider and an opinion from the state engineer that the subdivider can fulfill the requirements of Paragraph (1) of Subsection F of Section 47-6-11 NMSA 1978 or acquire sufficient water rights through a permit issued pursuant to Section 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978. The state engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses.

A final plat shall not be approved unless the state engineer has so issued a permit for the subdivision water use or the subdivider has provided proof of a service commitment from a water provider and the state engineer has provided an opinion that the subdivider can fulfill the requirements. The appropriate authority shall not approve an application based on the use of water from any permit issued pursuant to Section 72-12-1.1 NMSA 1978 (domestic use permit).

SECTION 2. In addition, another new section of the New Mexico Subdivision Act is proposed: Before approving the final plat for a subdivision of land from which the water rights attached to the land have been severed, the board of county commissioners shall require that the sub-divider must provide proof of a service commitment from a water provider and an opinion from the state engineer that the subdivider can fulfill the requirements of Paragraph (1) of Subsection F of Section 47-6-11 NMSA 1978 or acquire sufficient water rights through a permit issued pursuant to Section 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978.

The state engineer must determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses. The board of county commissioners shall not approve the final plat unless the state engineer has so issued a permit for the subdivision water use or the subdivider has provided proof of a service commitment from a water provider and the state engineer has provided an opinion that the subdivider can fulfill the requirements. The board of county commissioners shall not approve an application based on the use of water from any permit issued pursuant to Section 72-12-1.1 NMSA 1978."

SECTION 3 is an EMERGENCY clause.

FISCAL IMPLICATIONS

No fiscal impact.

SIGNIFICANT ISSUES

The OSE notes the following:

The bill states "subdivision of land from which the water rights attached to the land have been severed". This statement appears to relate to situations where a parcel of land that had irrigation water rights previously appurtenant to it and have been transferred to another place of use. The bill does not provide how that determination will be made, what entity will perform the analysis to determine that the lands have or have not had water rights severed, and which entity will verify that the proposed subdivided lands have or have not had water rights severed from it.

If the State Engineer is tasked with the review or certification of a "subdivision of land from which the water rights attached to the land have been severed", this will add a new burden to the

subdivision review process. Currently, the State Engineer is required to review subdivisions for issues related to water quantity as described in Section 47-6-11-F.(1) within 30 calendar days. If there are additional requirements placed on this review, it will be very difficult to provide a accurate review within the 30 day requirement.

MTM:MW/blm