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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/15

SPONSOR Wirth/Nunez **LAST UPDATED** _____ **HB** _____

SHORT TITLE Water Rights Leases Effective Dates **SB** 493

ANALYST Sanogo

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

SB 493 would require the Office of the State Engineer (OSE) to provide notice and opportunity for a hearing to other water right owners before an applicant may use water under a temporary water use lease.

FISCAL IMPLICATIONS

No fiscal impacts. See, “significant issues.”

SIGNIFICANT ISSUES

SB 493 would remove OSE’s ability to preliminarily approve an application for temporary water use under a lease. Current statute permits an applicant to make immediate use of such leased water. According to OSE, under Section 72-6-5 NMSA 1978, the agency may approve of a lease application in a non-emergency situation if the applicant has shown that the proposed temporary use is beneficial and:

1. will not impair an existing right to a greater degree than current use would cause, and
2. will not be contrary to conservation of water within the state, or detrimental to the public welfare of the state.

Section 72-6-6 NMSA 1978 provides for the final “granting” of the application, or final decision of the state engineer, after publication and hearing. SB 493 would eliminate the possibility of immediate water use upon preliminary approval under Section 72-6-5 NMSA 1978 in non-emergency situations. The agency argues that this action is consistent with the Water Code that allows emergency applications. Furthermore, OSE argues that

Preliminary approval of a water use lease application pursuant to Section 72-6-5 is a flexible and effective mechanism for the State Engineer to regulate the temporary use of water in non-emergency situations.

SB 493 would eliminate the only tool available to the State Engineer to meet a wide variety of temporary non-emergency water demands through an expedited process while also protecting the due process rights of other water rights owners to file protests, have a hearing, and obtain a final decision from the State Engineer.

AIS/je