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FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/20

SPONSOR Stefanics LAST UPDATED _____ HB _____

SHORT TITLE Land Grant & Acequia Audit Help SB 79

ANALYST Daly

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	\$250.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 70 and HB 111

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Auditor (OAS)
 New Mexico Attorney General (NMAG)
 Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

Senate Bill 79 appropriates \$250 thousand from the general fund to the Office of the State Auditor for expenditure in FY21 for the purpose of providing assistance to land grant-mercedes and acequia associations in complying with the Audit Act.

FISCAL IMPLICATIONS

The appropriation of \$250 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY 21 shall revert to the general fund.

SIGNIFICANT ISSUES

OSA advises it will use this \$250 thousand appropriation to assist the two types of local public bodies identified in becoming compliant with the state's Audit Act. That law requires the financial affairs of every governmental agency be thoroughly examined and audited each year by the OSA or an OSA-approved independent public accountant. Compliance with the Audit Act is usually required for an agency to be eligible to receive capital outlay funding. Risk of noncompliance with the Audit Act due to a lack of financial means can result in agencies not

receiving capital outlay or other types of funds.

One example is legislative funding administered by the Interstate Stream Commission (ISC), which requires acequias (like other eligible public bodies) comply with all state audit requirements. OSE reports that this has proven difficult for many acequias. ISC does not have specific statutory authority to provide assistance to acequias to comply with the Audit Act (nor specific statutory authority to ensure acequias so comply). OSE also points out that capital outlay appropriations do not allow an acequia to use funds appropriated for projects to reimburse for independent audit services.

OSA also warns that the amount of this appropriation will not be sufficient to address the underlying need. Further, the reversion clause contained in the bill as drafted may limit the assistance that can be provided. Although OSA supports this bill, it points out that it does not include other types of small political subdivisions that may also need financial assistance in complying with the annual audit requirement.

RELATIONSHIP

This bill is related to but provides more restrictive funding for and coverage to small political subdivisions when compared to SB70, which appropriates \$2 million to the OAS for expenditure in FY21 and FY22 to assist the two types of local public bodies covered in this bill as well as community ditches and mutual domestic associations in complying with the Audit Act.

Additionally, this bill is related to HB111, which provides for annual distributions of .05 percent of net gross receipts tax for unspecified uses to land grant-mercedes as defined in that bill and that are in compliance with the Audit Act.

OTHER SUBSTANTIVE ISSUES

NMAG warns that providing assistance to land grants-mercedes that are not political subdivisions of the state may present an issue under the anti-donation clause of Article IX Section 14 of the New Mexico Constitution.

AMENDMENTS

OAS also notes that, as compliance with the Audit Act is an annual requirement, the benefit to the agencies listed would likely increase if the appropriation was amended to be non-reverting to allow any funding remaining after FY21 to fund this effort beyond that fiscal year. Additionally, OAS suggests expanding the types of agencies that could receive services with the funding provided in this appropriation to include all local public bodies.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OAS asserts that failure to enact this bill will be detrimental to the rural areas of the state, which are in great need of critical capital outlay, but cannot qualify for funding without current audits.

MD/rl