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FISCAL IMPACT REPORT

ORIGINAL DATE 02/12/13

SPONSOR Dodge LAST UPDATED _____ HB 448

SHORT TITLE Removal of Lands from Watershed Districts SB _____

ANALYST McCoy

APPROPRIATION (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to SB283

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)
 Administrative Office of the Courts (AOC)
 New Mexico Department of Agriculture (NMDA)

SUMMARY

Synopsis of Bill

Section 1 of House Bill 448 (HB448) amends provisions of the watershed district act to prevent watershed district members from detaching their land from the district when such lands contribute to the purpose of the district. Section 2 of HB 448 amends provisions of the watershed district act to require a majority of landowners to file a petition for discontinuance in all cases. The current language allows twenty-five or more landowners within a district to file a petition or if less than fifty landowners are involved, a majority is then required. Section 2 also restricts the discontinuance until a demonstration that all obligations of the district have been met.

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 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 NMDA notes, 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 NMDA notes, the cost of 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, 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, HB448 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.

The AOC notes, the proposed amendments render withdrawal from the district more difficult by ensuring that all landowners who either benefit, may benefit, or whose lands are determined to contribute to the district's purposes remain members of the district. The amendments further prevent a loss of paying members when the district's obligations have not been met.

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.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB448 duplicates Senate Bill 283.

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.

MTM/blm