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FISCAL IMPACT REPORT

SPONSOR: Wallace DATE TYPED: 03/07/01 HB HJM 49/aHAGC
 SHORT TITLE: Rural Water System Improvements SB _____
 ANALYST: Belmares

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			See Fiscal Implications section below.		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 Department of Environment (DOE)
 Office of the State Engineer
 New Mexico Finance Authority
 New Mexico Drinking Water State Revolving Loan Fund

SUMMARY

Synopsis of HAGC Amendment

The House Agriculture and Water amendment replaces the term “been refused” and inserts in lieu thereof “had difficulty receiving” when describing rural water infrastructure financing assistance provided to water systems by the Drinking Water Bureau within the Department of Environment.

Synopsis of Original Bill

House Joint Memorial 49 requests that the Drinking Water Bureau and the State Engineer expedite assistance to rural water systems and to cooperate with the New Mexico Finance Authority in carrying out the statutory duties of the Department of Environment and the State Engineer to support water system improvements and to administer water rights. The joint memorial also requests that the Secretary of Environment and the State Engineer report to the legislative council by June 1, 2001 on the progress in expediting financing of rural water system improvements.

Significant Issues

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The roles between the Department of Environment and the New Mexico Finance Authority were defined by the legislature through the New Mexico Drinking Water State Revolving Loan Fund (NMSRLF) Act. A memorandum of understanding exists between the Department of Environment and the New Mexico Finance Authority pursuant to the NMSRLF Act. However, the Office of the State Engineer is not included in the NMSRLF Act or in a formal memorandum of understanding pursuant to the NMSRLF Act.

The Department of Environment has indicated the actions required by the department of evaluating systems and placing them on the priority list and of performing capacity assessments are being completed at the rate to be by the New Mexico Finance Authority. The Department of Environment also asserts the rate of committing funds by the New Mexico Finance Authority has increased dramatically. Increased cooperation could result in more loans being made from the Drinking Water State Revolving Loan Fund.

FISCAL IMPLICATIONS

The Office of the State Engineer has indicated it would require several more positions for the expedited review of files dedicated solely to reviewing water rights applications would mean an expedited review of all applications including rural water users. However, the Office of the State Engineer did not provide an estimate regarding how many positions it would require or an associated fiscal impact estimate.

ADMINISTRATIVE IMPLICATIONS

The Drinking Water Bureau and the New Mexico Finance Authority have been holding weekly meetings (regarding the New Mexico Drinking Water State Revolving Loan Fund) at the director level prior to the current legislative session. The Department of Environment has indicated extending to the Office of the State Engineer the administrative structure associated with the Drinking Water State Revolving Loan Fund should have no negative administrative implications on the Department of Environment or the New Mexico Finance Authority.

The Office of the State Engineer asserts the joint memorial would require the Office of the State Engineer to find and list all pending water rights applications filed by rural water users, make a list and expedite their processing. Additionally, the Office of the State Engineer indicates the joint memorial would require it to act as a consulting firm that would assist the rural water users (associations) in the acquisition of water rights.

OTHER SUBSTANTIVE ISSUES

The joint memorial states, “. . . the state engineer’s review of water rights as a condition of approved financing has resulted in denial of rural water users’ water rights and financing for improvements to those systems.” However, the Office of the State Engineer indicates its Water Rights Division has never been asked to participate in such a review. The Office of the State Engineer has indicated if the intent of the joint memorial is to ask it to expedite the review of applications for rural water users, it would be more than willing to cooperate.

TECHNICAL ISSUES

In the administration of water rights, applications must be reviewed in the order they are applied for. The Office of the State Engineer has expressed concern regarding its interpretation of the language in

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the joint memorial seeming to indicate the Water Rights Division would have to review applications out of order of filing in order to review of water rights as a condition of approved financing.

Additionally, the memorial does not define who a rural water user is.

POSSIBLE QUESTIONS

The Office of the State Engineer has offered the following questions: Who will be responsible in insuring rural water users process paperwork in a timely manner, advertise their applications in a timely manner, insure these rural water users have valid existing water rights for use in their improved systems, assist and fund the purchase of valid existing water rights for the needs of the improved water systems, comply with the conditions of prior and present permits for the appropriation of water, and determine how much water is needed for the future of these rural water users?

EB/ar