

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: Griego DATE TYPED: 03/09/01 HB _____
 SHORT TITLE: Non-Forfeiture of Acequia Water Rights SB 639/aSCONC
 ANALYST: Dotson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		NFI			None

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 247
 Duplicates HB 576

SOURCES OF INFORMATION

LFC Files
 Majority Analyst assigned to the House Agriculture and Water Resources Committee (HAWRC)
 New Mexico Acequia Association (NMAA)
 New Mexico Ditch Association
 Office of the State Engineer (SEO)

SUMMARY

Synopsis of the SCONC Amendment

This Senate Conservation Committee amendment provides that water rights owned by an acequia or community ditch association will not be lost for nonuse of the water after July 1, 2001.

Synopsis of Original Bill

SB 639 provides that an acequia or community ditch can acquire water rights and the water rights of an acequia or community ditch shall not be lost for non-use of waters.

Deletes the phrase [except as provided in Section 72-5-28 NMSA 1978].

Significant Issues

The purpose of this bill is the subject of differing interpretations:

NMAA states that the purpose of the bill is to grant the same status to acequias and ditch associations that exist for other public entities and political subdivisions in the matter of water rights forfeiture and abandonment. Acequias are political subdivisions of the state (NMSA 1978 Section 73-2-28) and want the same forfeiture provisions that exist for conservancy districts. The applicable statute for conservancy district states water rights "shall not be lost...for non use of the waters." (NMSA 1978 Section 73-17-21).

According to the State Engineers the bill would take water rights under community ditches or acequias outside the forfeiture statute and provide a specific exemption for those types of water rights.

According to the State Engineer, acequias and community ditches are already included and exempt from forfeiture of water rights if they place water in a State Engineer approved conservation program.

Under this bill, acequias and community ditch associations could preserve their member's water rights if the water rights of the individuals are transferred to the acequia or community ditch association.

PERFORMANCE IMPLICATIONS

According to the State Engineer, the status of water rights adjudications is in jeopardy if diversion rights are confirmed as water rights. The Agency would have to start with new adjudications.

RELATIONSHIP

HB 247 also defines legal status of acequias or ditch associations relative to forfeiture provisions for non use of water rights.

POSSIBLE QUESTIONS

1. What is the intent of the proposed bill?
2. What is the legal distinction between a conservancy district and an acequia or community ditch association?

PD/lrs:ar