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FISCAL IMPACT REPORT

SPONSOR: Campos DATE TYPED: 02/23/01 HB _____
 SHORT TITLE: Improve Water Rights Adjudication Process SB 743
 ANALYST: Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 50.0			Non-Rec	GF

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

Senate Bill 743 appropriates \$50.0 from the general fund to the Board of Regents of the University of New Mexico (UNM) for the School of Law to study an alternative process for prioritizing state court water rights adjudications and for assessing resources needed by the courts and the Office of the State Engineer (OSE) to complete those adjudications.

Significant Issues

The appropriation in this bill would enable the UNM School of Law to conduct a study and develop recommendations, in cooperation with the OSE, for prioritization of existing state court water rights adjudications within ground water basins and stream systems and for assessment of the resources needed by the courts and the OSE to expedite the completion of water rights adjudications.

PERFORMANCE IMPLICATIONS

According to the OSE, implementation of this bill would help the OSE accomplish a major program measure -- obtaining judicial determinations of water rights through adjudication of all stream systems and underground basins within the state in order to meet interstate obligations.

FISCAL IMPLICATIONS

The appropriation of \$50.0 contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY02 shall revert to the general fund.

ADMINISTRATIVE IMPLICATIONS

To successfully complete this study, the UNM School of Law must work closely with the OSE.

OTHER SUBSTANTIVE ISSUES

According to the OSE, the State Engineer lacks the fiscal and staffing resources necessary to aggressively move forward to address all pending state and federal adjudications simultaneously. Instead, he must selectively focus his resources on those cases most critical to the State.

There are five water right adjudications currently pending in New Mexico State District Courts involving the following stream systems and underground basins: Lower Rio Grande, Pecos Stream System, Santa Fe River, Rio San Jose and San Juan Basin. Due to the need to address critical compact issues and downstream delivery obligations, as well as imminent litigation from the State and Texas, and to oppose United States efforts to displace and usurp private water right ownership and state control within the Lower Rio Grande and the Pecos River, the State Engineer has made the adjudications for the Lower Rio Grande and the Pecos River his top priority. The State Engineer has marshaled considerable fiscal and staffing resources within his office to meet these demands and he has also requested special appropriations for FY02 to obtain additional funding for this purpose.

The remaining state court adjudications for the Santa Fe River, San Juan Basin and Rio San Jose have proceeded at a much slower pace with activity focused on discrete areas because, while important, the latter adjudications do not implicate critical compact issues and do not present imminent litigation threats to the State from United States and Texas entities. Besides his state court adjudications, the State Engineer is also involved in another five federal district court adjudications involving Northern Rio Grande Tributaries which concern Native American water rights and the rights of acequia parciantes, as well as federal district court and appellate litigation involving United States and Texas claims in the Lower Rio Grande. The federal courts are imposing rigorous deadlines on the State and accelerating those cases rapidly.

The following is provided for information only. It is not intended as a commentary on the merits of the program/project:

This project was not included in NMSU's budget request to the NMSU Board of Regents, and thus was not submitted by NMSU to the CHE for review. The CHE did not recommend funding this project.

LG/njw