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## FISCAL IMPACT REPORT

SPONSOR: Lujan DATE TYPED: 2/03/03 HB 302

SHORT TITLE: Water Banking Authority SB \_\_\_\_\_

ANALYST: Chabot

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
		NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicated SB 124

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

Energy, Minerals and Natural Resources Department (EMNRD)

### SUMMARY

#### Synopsis of Bill

House Bill 302 enacts statute allowing acequia and community ditch associations to establish water banks for the purpose of temporarily reallocating water without a change of purpose or point of diversion without requiring approval by the Interstate Stream Commission or the State Engineer. The new statute incorporates language found in Section 72-1-2.3.C NMSA 1978 which provided for acequia and community ditch water banking in the lower Pecos River Basin only. Section 72-1-2.3.C would be repealed.

#### Significant Issues

The New Mexico Acequia Association (NMAA) supports this bill because it expands authority for water banks in the lower Pecos River Basin to the entire state. NMAA was very reluctant to support water banking but helped develop the language for the lower Pecos River Basin. They now see an advantage to have the existing statute applicable statewide.

OSE states that the bill is not necessary as acequias can establish water banks with the State Engineer approval under existing statutes (Sections 72-5-28(G) and 72-12-8(D) NMSA 1978). The Association de Acequias Norteñas de Arriba has submitted for approval of the State Engineer a plan for a water bank on the Upper Chama stream system and the Tierra Amarilla valley under these provisions.

OSE is concerned that having the authority to establish water banks without the approval by the State Engineer has the potential to allow increased depletions of surface stream flows if new water banks are implemented without adequate safeguards. OSE states that water banks should meet the following minimum requirements as applicable: a fully metered and gaged irrigation system; a conjunctive surface/groundwater model; a supply of wet water available to serve as a replacement source for compact compliance and drinking water supplies in times of drought; a permanent pool of surface water adequate to meet the increasing demands of municipalities on surface water supplies; the ability to budget and administer annual wet water demand versus annual wet water supply; and procedures for aggrieved water right owners to obtain judicial review from the district court from actions taken by the director of the bank.

### **TECHNICAL ISSUES**

OSE recommends that the bill be amended to state that water banking authority is limited to water rights that are finally adjudicated.

### **POSSIBLE QUESTIONS**

1. The current law covering the lower Pecos River basin sunsets at the end on fiscal year 2005, would it be prudent to delay passage of this bill so that the Pecos River efforts can be fully evaluated?

GAC/yr