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FISCAL IMPACT REPORT

SPONSOR: Cervantes DATE TYPED: 02/19/03 HB 744

SHORT TITLE: State Engineer Water Rights Adjudications SB _____

ANALYST: Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
\$2,100.0				Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to a Special Appropriation in the 2002 General Appropriation Act.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Office of the State Engineer (OSE)

Responses Not Received From

Administrative Office of the Court (AOC)

SUMMARY

Synopsis of Bill

House Bill 744 appropriates \$2,100.0 from the general fund for the purpose of improving the efficiency of the water rights adjudication process.

- \$443.2 is appropriated to the AOC for personnel, software, equipment, office space, administrative support and contractual services to consolidate databases and to coordinate data exchange between the courts, and to create a web-based water rights information project.

- \$1,324.4 is to OSE personnel, hardware, software, equipment, office space and administrative support to accelerate hydrographic survey, fieldwork and mapping, and to expand informal interaction between the staff and water rights claimants to increase informal negotiations for settlement of claims.
- \$332.4 is appropriated to DFA for personnel, equipment, office space and administrative overhead to establish a statewide water rights public education and facilitation program to assist water rights claimants.

The bill contains an emergency clause.

Significant Issues

Adjudication of water rights has been a slow process. The adjudication on the Pecos has been underway for more than 40 years. OSE reports that 14% percent of the water basins have been completed. According to testimony to the interim Legislative Water and Natural Resource Committee, lack of adjudications inhibits OSE in managing the waters of the state. This is of critical importance since the state is a party to eight compacts and has to deliver water to neighboring states or face penalties such as were incurred in *Texas v. New Mexico*.

OSE states expeditious and comprehensive adjudication of water rights in New Mexico is the foundation for active water management in the state. Much of the contentiousness of stream adjudications is the result of lack of understanding of law and the adjudication process, some of which can be resolved through the appropriations in this bill. This bill provides for three different appropriations to fund processes within the courts and OSE so they can work together to expedite resolution of water rights claims.

FISCAL IMPLICATIONS

The appropriation of \$2,100.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund.

Not having the unexpended or unencumbered balance could cause accounting complications if recurring appropriations are made each year.

ADMINISTRATIVE IMPLICATIONS

DFA will have to determine the best way to set up an office to assist individuals in processing water rights claims. It assumes the intent of the appropriation to DFA is to have the agency provide “third party agency” to individuals pursuing water rights claims.

SUBSTANTIVE ISSUES

This bill envisions a new role for DFA but does not specify which division is best suited to carry out the public education and facilitation program.

POSSIBLE QUESTIONS

1. What division in DFA should manage the public outreach program for water rights?
2. How would AOC use the appropriation to consolidate stand-alone databases between OSE and the courts and to create a web-based information system?
3. Should a working group of the three agencies be created to ensure the appropriations are used in concordance to improve the adjudication of water rights in New Mexico?

GAC/njw