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FISCAL IMPACT REPORT

SPONSOR Jennings DATE TYPED 3/13/05 HB _____

SHORT TITLE Water & Sanitation District Changes SB 863/aSJC

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Environment Department (ED)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment removes language referring to a hearing held as a result of a petition of the qualifying number of tax paying electors of the district protesting the rates, tolls or charges, the PRC shall determine whether the proposed rates, tolls or charges are just and reasonable.

The amendment also removes the language stating that in a PRC proceeding arising under this subsection, the burden of proof to show that the increased rate, toll or charge is just and reasonable shall be on the district.

Synopsis of Original Bill

Senate Bill 863 relates to water and sanitation districts. It provides additional purposes for districts, changes the qualifications of district electors and provides standards for review of district rates by the PRC.

Significant Issues

Most of the amendments in this bill make grammatical or non-substantive changes to the Water and Sanitation Act. These amendments merely clarify or simplify the act already in existence and do not affect the authorities already granted.

The AGO states there are two substantive changes proposed by this bill. The first adds a provision, which would allow water and sanitation district to purchase, acquire, establish, construct or operate other public facilities or economic development projects. However, the AGO notes this bill gives no indication as to what is anticipated to qualify as a public facility or economic development project. For instance would a water and sanitation district be allowed to run an electric co-op?

The second change is the definition of a “taxpaying elector” of a district. A “taxpaying elector” has the right to vote on whether a district should or should not be created and has the right to vote in the election for a board of directors who will handle the day-to-day operations of a district. Under current law a “taxpaying elector” of a district is defined as any person qualified to vote in a general election in the state that has either paid or will pay a tax liability incurred on real property located within the boundaries of the district. The bill narrows and specifies the eligibility of a “taxpaying elector” to one that is registered to vote in any precinct in the state and who is either:

- a resident of the district
- is a nonresident of the district who pays or will be liable for paying, rates, tolls or charges as set by the board; or
- is a nonresident of the district who has paid or will pay an incurred general tax liability on real property located within the district within a twelve month period.

The key language to this bill is that in order to be eligible as a “taxpaying elector” one must be registered to vote in any general election in the State of New Mexico. Thus, a person could be a tax paying resident or non-resident of a district but if they are not a register voter they will have no voice in how the district shall be operated even though they maybe directly impacted by the operation of the district.

The PRC indicates another significant provision of this bill is to further to further define PRC and district responsibilities in the event that a district rate filed with the PRC is successfully protested by district taxpayer electors.

ADMINISTRATIVE IMPLICATIONS

The PRC can handle the provisions of this bill with existing staff.

OTHER SUBSTANTIVE ISSUES

The PRC provided the following:

Section 73-21-3 E provides that water and sanitation districts may be created for the purpose of purchasing, acquiring, establishing, constructing or operating other public facilities or economic development projects;” This appears to be an extremely broad and open-ended definition of pur-

pose that doesn't have much to do with traditional water and sanitation districts activities.

Section 73-21-4 D provides a very clear definition of taxpayer elector that should give representation to individuals who currently may be subject to district rates or taxes but who are prohibited from participating in district elections because of the interpretation of existing language.

Since water and sanitation districts have broad authority to engage in activities other than water and sewer service such as solid waste collection service, but the PRC does not have jurisdiction over such other services as solid waste collection. It is suggested that the language in 73-21-55 C be modified to define the "rates, tolls and charges" subject to approval of the PRC to be "rates, tolls and charges relating to provision of water or wastewater utility service".

DW/rs:lg