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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/06

SPONSOR Beffort LAST UPDATED _____ HB _____

SHORT TITLE Water Rights Adjudications SB 131

ANALYST Lewis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	10,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 183

Relates to SB 80 (Water Rights Adjudications), which appropriates \$100 million with emergency clause for the same purpose.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)
 Department of Finance and Administration (DFA)
 Attorney General (AG)

SUMMARY

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

Synopsis of Bill

Senate Bill 131 appropriates \$10,000,000 from the general fund to the Office of the State Engineer for expenditure in fiscal years 2006 and 2007 to pay the costs of water rights adjudications.

FISCAL IMPLICATIONS

The appropriation of \$10,000,000 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

According to the Office of the State Engineer (OSE), the current operating budget in the state engineer's litigation & adjudication program is \$6,713,000 for recurring expenses in adjudicating

water rights in New Mexico. OSE notes that it is very unlikely that all the of the state’s water rights will have been completely adjudicated by the end of a two-year period, and asks that the State Engineer be allowed to expend this appropriation over a period of 10 years or longer instead of two.

The Department of Finance and Administration (DFA), notes that the proposed appropriation is not included in the executive budget recommendation.

SIGNIFICANT ISSUES

According to the Department of Finance and Administration (DFA), OSE is the lead agency in a number of adjudications regarding water rights from inter-state disputes to intrastate water right determination challenges between parties ranging from individual water right claimants to the Indian nations and agencies of the federal government. These funds could be allocated to any of those efforts. DFA states that, combined, the water adjudication efforts that the agency is involved in are expected to require hundreds of millions of dollars to complete.

PERFORMANCE IMPLICATIONS

OSE indicates that the large infusion of money into the State Engineer’s litigation and adjudication program should allow OSE to take on and complete many additional tasks in all of the active adjudications pending throughout the state.

ADMINISTRATIVE IMPLICATIONS

According to OSE, the influx of \$10,000,000 that must be spent within two years would require a massive, short-term expansion of the State Engineer’s litigation and adjudication program. The State Engineer would need to assess which adjudications would most benefit from a short-term increase in expenditures, determine how many additional personnel are required, obtain additional temporary office space, and train new personnel.

The State Engineer utilizes two trust funds for adjudicating water rights. These two funds have been reduced significantly in the past five years and are now in need of replenishment. These trust funds would be a good place for some of the funding considered in this appropriation.

AMENDMENTS

OSE recommends the following amendments to allow the appropriation to be expended over a longer time period:

- 1) On page 1, line 17, after the year “2006”, delete “and 2007” and insert in lieu thereof “through 2016”.
- 2) On page 1, line 19, after the word “year” delete “2007” and insert in lieu thereof “2016”.

OSE also recommends an amendment to clarify that the State Engineer may expend funds as necessary to complete ongoing and future adjudications, including expenditures for personnel, office space, equipment, contracts, vehicles, and hydrographic surveys, etc.