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## FISCAL IMPACT REPORT

SPONSOR Sanchez, M. ORIGINAL DATE 2-10-07  
 LAST UPDATED 3-09-07 HB \_\_\_\_\_  
 SHORT TITLE State Engineer Permits for Subdivisions SB 693/aSfI  
 ANALYST Woods

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	N/A	\$190.0*	\$190.0*	\$380.0*	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

\*OSE Projections

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of SFI Amendment

The first amendment proposed by the Senate Floor reinstates previous language. The amendment states that “before approving the final plat for a subdivision containing *twenty* or more parcels, any one of which is two acres less in size, the board of county commissioners shall require that the sub divider provide a copy of a permit obtained from the state engineer...”

#### Synopsis of Original Bill

Senate Bill 693 seeks to amend Section 47-6-11.2 NMSA 1978 (being Laws 1995, Chapter 212, Section 13) to read as follows:

47-6-11.2. WATER PERMIT REQUIRED FOR FINAL PLAT APPROVAL. Before approving the final plat for a subdivision containing five or more parcels, any one of which is two acres or less in size, the board of county commissioners shall require that the subdivider provide a copy of a permit obtained from the state engineer, issued pursuant to Section 72-5-1, 72-5-23 or 72-5-24 NMSA 1978, or if the subdivision is located within a declared underground water basin, provide a copy of a permit obtained from the state engineer issued pursuant to those sections or to Section 72-12-3 or 72-12-7 NMSA 1978 for the subdivision water use. In acting on the permit application, the state engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses. The board of county commissioners shall not approve the final plat unless the state engineer has so issued a permit for the subdivision water use.

There is no appropriation attached to this legislation.

**FISCAL IMPLICATIONS:**

OSE anticipates this bill will add a workload of 2 FTEs at \$90,000/FTE for a total of \$180,000 per year; however, no in-depth cost analysis has been provided.

**SIGNIFICANT ISSUES:**

OSE opines that if Subsection B of the subdivision act is stricken and subsection A, as amended, will remain as the operative language. This section of the subdivision act provides that the Board of County Commissioners shall require water right permits from the state engineer for all subdivisions containing five or more parcels, any one of which is two acres or less in size, prior to final plat approval.

OSE notes that the subdivision act was substantially amended in the mid-1990s, with those changes taking effect July 1, 1997. One of the changes was to allow counties the option of approving final plats without having a state engineer water right permit in place. The water right permitting process can be a lengthy and controversial process. If a water right application is either protested, or if the applicant believes they have been aggrieved by the state engineer's permit, it is referred to the state engineer's administrative hearing process. Once the state engineer has rendered an order from that process, it can be taken up in district court and be appealed ultimately to the Supreme Court.

By requiring counties to have state engineer permits in place at the time of final plat, OSE suggests that there may be a substantial delay in final plat if a water right permit application is either aggrieved or protested. Moreover, that, if enacted, domestic wells are not a water supply option for any subdivisions containing five or more parcels, any one of which is two acres or less in size.

**PERFORMANCE IMPLICATIONS:**

OSE indicates that the principal performance implication will be if there are new applications to the state engineer. It appears that there is a requirement that subdivisions containing five or more parcels, any one of which is two acres or less in size will be required to have water rights

permit. Additionally, the statute change will likely limit the number of subdivisions the can have domestic wells. This will increase the number of water right applications that will need to be processed by the office of the state engineer, thereby affecting this agency's ability to meet its water rights processing performance measures.

**ADMINISTRATIVE IMPLICATIONS:**

OSE advises that the number of new water right applications is difficult to determine, and that the effect of this statue will include an increased burden on the agency's water right processing functions, including hydrology, water use, conservation and subdivisions, water rights personnel, administrative litigation and the hearing bureaus of the agency. The time to process applications will increase and directly affect the timeliness the state engineer's action on protested and aggrieved permits, this resulting in the agency's projected increase of 2 FTE.

**OTHER SUBSTANTIVE ISSUES:**

OSE further suggest that, if enacted, subdivision planning will have to provide for the filing of water rights applications one or more years before the permits are needed for final plat approval.

BS/nt