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## FISCAL IMPACT REPORT

**SPONSOR** Garcia, M.P. **ORIGINAL DATE** 01/28/11  
**LAST UPDATED** \_\_\_\_\_ **HB** 117  
**SHORT TITLE** Conservancy District Powers Over Acequias **SB** \_\_\_\_\_  
**ANALYST** Haug

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

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General (AGO)

Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of Bill

House Bill 117 amends Section 73-14-39 NMSA 1978 to grant the right to receive and distribute water to its members to “any lawfully organized acequia or community ditch” located within the Middle Rio Grande Conservancy District (MRGCD) in Bernalillo County and also grants the right for the acequia or community ditch to enter into a contract with MRGCD for operation and maintenance of the ditch.

### FISCAL IMPLICATIONS

House Bill 117 has no fiscal impact.

### SIGNIFICANT ISSUES

According to the AGO:

There is significant legal doubt and public controversy as to whether any “acequia or community ditch” does exist or can exist within the boundaries of MRGCD. See, for example, *Middle Rio Grande Conservancy District v. Chavez*, 44 N.M. 240 (1940). The bill does nothing to clarify or alleviate this significant legal doubt. It is also unclear

what, exactly, is meant by “any lawfully organized acequia or community ditch” as there is no reference to any statutory provision relating to the lawful organization of acequias or community ditches. Further, it appears that the existence of acequias or community ditches is contrary to the overall intent of the Conservancy Act and the formation of MRGCD in that the overall intent was to acquire, consolidate and eliminate acequias and community ditches and replace them with a more modern and efficient system of water distribution, flood control, land reclamation and so forth.

Assuming, without agreeing or disagreeing, that there are acequias or community ditches within the boundaries of MRGCD, the bill is directed only at those that might exist within Bernalillo County. MRGCD’s boundaries cross several counties but theoretical acequias and community ditches in any other county except Bernalillo County, would not have the same rights.

The OSE notes a cooperative relationship between a conservancy district and an acequia within its boundaries could result in improved operations. However, the bill does not clarify how the probable confliction issues of dual administrative authority, membership, or financial obligations should be addressed where an acequia is lawfully established within MRGCD. This ambiguity could impact the MRGCD’s ability to provide water to some of its members.

GH/mew