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FISCAL IMPACT REPORT

ORIGINAL DATE 02/19/13
 SPONSOR Tripp LAST UPDATED 03/01/13 HB 397/aHAGC
 SHORT TITLE State Engineer Application Rejections SB _____
 ANALYST McCoy

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

SUMMARY

Synopsis of HAGC Amendment

The House Agriculture and Water Resources Committee amendment to House Bill 397 expands the clause prohibiting the state engineer from accepting for filing only applications for new water appropriations, to prohibiting the state engineer from accepting for filing all incomplete applications, including changing a valid existing water rights. The amendment also requires the state engineer to determine if the application provides the specificity to determine whether the proposed appropriation would impair existing rights, be contrary to the conservation of water or be detrimental to the public welfare where the amount of water involved is equal to or greater than 1000 acre-feet of water.

Synopsis of Original Bill

House Bill 397 (HB 397) requires that an application for a new appropriation shall be rejected if there is insufficient evidence that, on its face, the proposed appropriation would not impair existing rights, be contrary to the conservation of water or be detrimental to the public welfare. HB 397 also requires the state engineer to personally review applications to appropriate water in which the appropriation is over 1,000.00 acre-feet.

FISCAL IMPLICATIONS

No Fiscal Impact.

SIGNIFICANT ISSUES

The OSE/ISC notes, the HAGC amendment to HB 397 ensures that both applications for new appropriations and transfers of valid existing water rights are complete upon filing to avoid situations where applications are published and protests filed, and money spent by both applicants and protestants only to have the applications denied because they were incomplete.

The OSE adds, this bill is a response to the efforts of three entities that made applications for thousands of acre of feet of water which were accepted for filing on the condition that the applicants would make their applications complete at a later date or at hearing. This bill would prevent that from occurring.

PERFORMANCE IMPLICATIONS

According to the OSE, HB 397 would require the OSE staff to make a preliminary analysis whether the application can be acted upon based on the information provided before accepting it for filing and, if not, staff would have to return to the applicant for further information. The OSE notes, while this requirement might slow the administrative process for processing the filing of applications, it could benefit applicants by ensuring their applications are not denied years after being filed for not meeting the statutory requirements for filing a particular application.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to the OSE, if HB 397 is not enacted the water rights' process for reviewing applications before accepting applications for filing would remain to subject to the state engineer's direction. The water rights division reviews the application after the last day of publication to determine whether the application will impair existing rights, be contrary to the conservation of water or be detrimental to the public welfare. The current law also requires the applicant to publish the application in a newspaper and give anyone opportunity to protest the application.

MTM/blm:svb