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## FISCAL IMPACT REPORT

**SPONSOR** Cisneros **ORIGINAL DATE** 02/03/14  
**LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Pueblo Lease of Adjudicated Water **SB** 164

**ANALYST** Armstrong

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 222

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the State Engineer (OSE)  
 Attorney General's Office (AGO)  
 Indian Affairs Department (IAD)  
 Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 164 amends the Water-Use Leasing Act, Chapter 72, Article 6 NMSA 1978, so that state law regarding water leasing conforms to the federal law governing the leasing of Taos Pueblo, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque water rights as recognized in their respective water rights settlements.

### FISCAL IMPLICATIONS

No fiscal impact.

### SIGNIFICANT ISSUES

Currently, under Section 72-6-3 NMSA 1978, a pueblo may not lease its water rights to a third party for a term longer than 10 years. SB 164 amends existing statute to allow the Pueblos of

Taos, Nambe, Pojoaque, Tesuque, and San Ildefonso to lease their federal law based water rights recognized in their respective water rights settlements for the longer term specifically authorized in the federal statute approving those settlements, i.e. 99 years.

This bill satisfies an obligation of the state under two water rights settlements that it has entered into to settle Pueblo Indian water rights claims which settle decades of litigation and provide a final quantification of the Pueblos' water rights under federal law. Both settlements have been approved by the United States under Titles V and VI of the Claims Resolution Act of 2010, P.L. No. 111-291, 124 Stat. 3064, 3122-3156. A provision under both settlement agreements and a requirement of the federal legislation approving those settlements is that the state will amend its laws to allow Pueblo water rights recognized under the settlement to be leased to third parties for a period longer than that allowed under existing state law.

SB 164 applies only to Pueblos' water rights based in federal law. It does not apply to Pueblos' water rights governed by the state law of prior appropriation.

## **DUPLICATION**

HB 222 duplicates SB 164.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

According to OSE analysis, failure to enact this measure could cause New Mexico to fail to meet one of the state's obligations required under the Taos and *Aamodt* (Nambe, Pojoaque, Tesuque, and San Ildefonso Pueblos) water rights settlements and related federal authorizing legislation. This could ultimately lead to a failure of the settlements, which would nullify the quantification of the Pueblos' water rights achieved in those settlements and would result in a loss of the other benefits to the state and to non-Indian water right owners that are provided by those settlements.

JA/svb