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FISCAL IMPACT REPORT

SPONSOR: Lujan DATE TYPED: 02/17/01 HB 358/aHAGC
 SHORT TITLE: NM Irrigation Works Construction Fund Loans SB _____
 ANALYST: Dotson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			See Fiscal Implications		Irrigation Works Construction Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Department of Agriculture and the Office of the State Engineer.

SUMMARY

Synopsis of HAGC Amendments

The House Agriculture and Water Resources Committee amendments clarifies the affect of HB 358 on acequia and community ditch associations. HB 358 shall not affect the status of acequia and community ditch associations as political subdivisions of the state.

Synopsis of Original Bill

This bill seeks to expand the interstate stream commission’s authorization to make direct loans out of any unpledged funds in the New Mexico irrigation works construction fund to also include acequia and community ditch associations located within irrigation districts.

Significant Issues of HAGC Amendments

The amendment clarified the affect of HB 358 on acequias and community ditch associations as political subdivisions however, it neglects to clarify the affect of HB 358 on their ability to incur indebtedness.

Significant Issues of Original Bill

HB 358 will allow acequia and community ditch associations the ability to borrow funds from the New Mexico Irrigation Works Construction Fund through the interstate stream commission

According to the State Engineer, there have been questions regarding the legal status of acequias and community ditch associations that existed prior to and during the establishment of an irrigation district around the preexisting acequia or community ditch. Since the acequia is located within an irrigation district boundary, its status as an acequia or community ditch has not been clear.

FISCAL IMPLICATIONS

The borrowing capacity for irrigation districts and soil and water conservation districts is \$2.5 million under the Irrigation Works Construction Fund. House bill 358 makes available to acequia and community ditch associations the unpledged amounts, reducing the future lending capacity of the fund.

TECHNICAL ISSUES

The State Engineer suggests adding the following sentence to page 2, line 13. Acequia and community ditch associations that existed prior to 1907, retain their historic configuration and river diversions, and are now located within irrigation and conservancy districts are recognized as political subdivisions of the state and as such are eligible to participate in federal acequia programs that require the beneficiary acequia or community ditch to be recognized as a political subdivision of the state.

OTHER SUBSTANTIVE ISSUES

According to the State Engineer, there are possible conflicts with irrigation district law and case law that provide that ditches that have been subsumed within an irrigation or conservancy district may have lost their status as political subdivisions of the state.

According to the State Engineer, the interstate stream commission does not have clear authorization to make direct loans to acequias and community ditch associations within irrigation districts from the New Mexico irrigation works construction fund or to sponsor the acequia's involvement in the federal acequia program. If this bill is not enacted, this issue will remain undecided and will have a negative impact on the acequias and community ditch associations seeking direct loans through the interstate stream commission from the New Mexico irrigation works construction fund.

PD/njw