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FISCAL IMPACT REPORT

SPONSOR: Vigil DATE TYPED: 02/19/01 HB 576
 SHORT TITLE: Preserve Acequia & Ditch Water Rights SB _____
 ANALYST: Dotson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 247

SOURCES OF INFORMATION

LFC Files
 Majority Analyst assigned to the House Agriculture and Water Resources Committee (HAWRC)
 New Mexico Acequia Association (NMAA)
 New Mexico Ditch Association
 Office of the State Engineer (SEO)

SUMMARY

Synopsis of Bill

HB 576 provides that an acequia or community ditch can acquire water rights and the water rights of an acequia or community ditch shall not be lost for non-use of waters.

Deletes the phrase [except as provided in Section 72-5-28 NMSA 1978].

Significant Issues

The purpose of this bill is the subject of differing interpretations:

NMAA states that the purpose of the bill is to grant the same status to acequias and ditch associations that exist for other public entities and political subdivisions in the matter of water rights forfeiture and abandonment. Acquits are political subdivisions of the state (NMSA 1978 Section 73-2-28) and want the same forfeiture provisions that exist for conservancy districts. The applicable statute for conservancy district states water rights “shall not be lost...for non use of the waters.” (NMSA 1978 Section 73-17-21).

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According to the State Engineers, the bill would take water rights under community ditches or acequias outside the forfeiture statute and provide a specific exemption for those types of water rights.

According to the State Engineer, acequias and community ditches are already included and exempt from forfeiture of water rights if they place water in a State Engineer approved conservation program.

Under this bill, acequias and community ditch associations could preserve their members water rights if the water rights of the individuals are transferred to the acequia or community ditch association.

PERFORMANCE IMPLICATIONS

According to the State Engineer, the status of water rights adjudications is in jeopardy if diversion rights are confirmed as water rights. The Agency would have to start with new adjudications.

RELATIONSHIP

HB 247 also defines legal status of acequias or ditch associations relative to forfeiture provisions for non use of water rights.

POSSIBLE QUESTIONS

1. What is the intent of the proposed bill?
2. What is the legal distinction between a conservancy district and an acequia or community ditch association?

PD/ar