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## FISCAL IMPACT REPORT



SPONSOR: Lujan DATE TYPED: 05/22/02 HB 2

SHORT TITLE: Tax Stabilization Reserve for Water Projects SB \_\_\_\_\_

ANALYST: Chabot

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
\$15,000.0	\$15,000.0			Non-Rec	Tax Stabiliza- tion Reserve

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

This bill amends Laws 2002, Chapter 109 to move \$15,000.0 of a \$30,000.0 FY03 appropriation to FY04. It appropriates \$15,000.0 for fiscal years 2003 and 2004 and \$15,000.0 for fiscal year 2004 from the tax stabilization reserve fund to the Department of Finance and Administration for the purpose of financing water projects. The \$15,000.0 for fiscal years 2003 and 2004 is for the purpose of protecting, enhancing or conserving water resources of which at least \$10,000.0 will be used for helping to comply with the Pecos River compact. The \$15,000.0 for fiscal year 2004 will be used for protecting, enhancing or conserving water resources without earmarking any portion for a particular project.

The transfer and expenditure of this appropriation is contingent on the following: a declaration by the governor that the expenditure is necessary for public peace, health and safety; certification by the Governor that, after the expenditure, the sum of the balances in the appropriation contingency fund, the general fund operating reserve and the tax stabilization reserve will be greater than five percent; the Interstate Stream Commission develop a plan for the expenditures that is approved by the Board of Finance; and the Board of Finance agrees that the expenditures are needed for public peace, health and safety.

The bill contains an emergency clause.

Significant Issues

HB 451 enacted during the 2002 Legislative Session (Laws 2002, Ch. 109) provided \$30,000.0 to be used in fiscal years 2003 and 2004 for the same purposes but specified the expenditure would be in three increments of \$10,000.0 from which at least one-third would be to help meet Pecos River compact obligations. This bill specifies that \$15,000.0 is appropriated each year for fiscal year 2003 and 2004. In addition, only the appropriation for fiscal year 2003 has the condition that at least \$10,000.0 must be used for Pecos River compact obligations.

Expenditures for Pecos River compact obligations that include purchases to obtain water rights would have to meet the conditions of Committee Substitute HB417&225 enacted during the 2002 Legislative Session (Laws 2002, Ch. 94). These conditions are as follows:

1. Water rights shall be purchased from willing sellers in an equal percentage, within a two-point range, of the total irrigated acreage in each of the following areas of the Pecos River:
  - a. from Santa Rosa to Macho draw;
  - b. from Macho draw to McMillan delta; and
  - c. from McMillan delta to the Texas state line
2. The offer for settlement of the Carlsbad irrigation district water rights adjudication shall be based upon the full project water or assessment roles of twenty-five thousand fifty-five acres; and
3. Purchases of water rights shall include the appurtenant land.

The Preliminary Report of the Pecos River Compact for Calendar Year 2001 issued by the River Master on April 27, 2002 concludes that New Mexico under-delivered 1,400 acre-feet of water leaving a credit of 9,200 acre-feet. This was, in part, accomplished by leasing 7,000 acre-feet from the Carlsbad Irrigation District in December to bring the state within the 95th percentile confidence level of meeting the delivery requirements. New Mexico and Texas have until June 15, 2002 to challenge the River Master's calculations. The Interstate Stream Commission is certain that Texas will challenge a calculation that resulted in a negative flow of 8,900 acre-feet from Alamogordo to Artesia. The River Master's final determination is due by July 1, 2002.

Because of the severe drought in Southeastern New Mexico, Interstate Stream Commission estimates are as high as a 22,000 acre-feet deficit for calendar year 2003 unless significant rainfall occurs. To help overcome this projected deficit, purchases of water rights are needed before the high water uses for irrigation begin.

After the Pecos River efforts, \$20,000.0 (\$5,000.0 in fiscal year 2003 and \$10,000.0 in fiscal year 2004) will be available to fund much needed water projects throughout the state. The Water Trust Board estimates that there are \$2.25 billion dollars in water projects required through the year 2040.

**FISCAL IMPLICATIONS**

The appropriation of \$30,000.0 contained in this bill is a non-recurring expense to the tax stabilization reserve. Any unexpended or unencumbered balance remaining at the end of fiscal year 2004 shall revert to the tax stabilization reserve.

**ADMINISTRATIVE IMPLICATIONS**

The Interstate Stream Commission must have a plan available as soon as the governor declares that the expenditure is necessary for the public peace, health and safety. Their staff is working on such a plan and will be complete to meet the effective date of this bill if enacted.

**POSSIBLE QUESTIONS**

1. What is the impact of not enacting this bill?
2. How will moving the appropriation from \$30,000.0 in fiscal years 2003 through 2004 to \$15,000.0 in fiscal year 2003 and \$15,000.0 in fiscal year 2004 affect plans for spending the appropriation?
3. What is the likelihood that the governor will declare the need and allow expenditures from the appropriation in time to effect Pecos River Compact deliveries for calendar year 2002?
4. What is the estimated reserve level and will it stay above five percent with the expenditures authorized by this bill?
5. What other water projects should be funded by this bill?

GAC/njw