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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/2009

SPONSOR Feldman LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Bernalillo County Trails Program SB 222

ANALYST Moser

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)

Energy, Minerals and Natural Resources Department (EMNRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 222 proposes to amend laws within the Conservancy Act of New Mexico by adding language to Section 73-16-2 allowing for a Trails Program in Bernalillo County funded by a reassignment of the property tax levy imposed by the Middle Rio Grande Conservancy District (MRGCD) allocating one-half (\$.50) mill of every dollar (\$1.00) of assessed valuation to be used for the exclusive purpose of establishing and maintaining a trails program within a Class A county. EMNRD estimates this revenue, which would amount to approximately \$854 thousand per year at current rates, would be allocated to an operating entity (the City of Albuquerque's Open Space Division), which would establish a trails and recreation program along the ditches and drains in Bernalillo County. Most (but not all) MRGCD lands along the river and between the main riverside levees are contained within the Rio Grande Valley State Park.

## **FISCAL IMPLICATIONS**

The fiscal impact will be on the MRGCD which currently imposes 3.97 mills for every dollar of assessed residential property and 4.96 mills for every dollar of assessed non-residential property. Bernalillo County assessed property valuations are \$1,7 million and projected collections of \$7.2 million. Reallocating one-half mill of every dollar of assessed valuation would result in loss of \$854 thousand to the district.

## **SIGNIFICANT ISSUES**

The trails program would operate under a joint powers agreement between the MRGCD and the City in the same way that the Rio Grande Valley State Park was established in an agreement between the MRGCD, the State and City in the early 1980s. A trails management plan would be developed by the Mid-Region Council of Governments under the joint powers agreement. Citizens, neighborhood organizations and other local jurisdictions would have input into the management plan for the program through public meetings and consultations among Bernalillo County, Albuquerque Metropolitan Flood Control Authority, New Mexico State Parks, the Village of Los Ranchos, the City of Albuquerque, and the MRGCD. The program would exclusively apply to Bernalillo County; taxes paid by Bernalillo County residents would be used only on a trail and recreation program within the County.

Most of the revenue collected by MRGCD comes from property taxes levied on land within the MRGCD's boundaries, which include portions of Bernalillo, Sandoval, Valencia and Socorro counties. The overwhelming amount of this property tax revenue (68 percent) comes from Bernalillo County taxpayers who own property along the river valley within the MRGCD. This year, Bernalillo County taxpayers will pay \$7.2 million in property taxes to MRGCD, while residents in the other three other counties put together will pay a total of \$3.3 million. (Data from the FY09 MRGCD budget.) Indeed, there is an inverse relationship between the prevalence of irrigated agriculture and the amount of revenue that MRGCD raises. Ironically, as Valley farmland becomes urbanized, it becomes a bonanza of revenue for the District, since property taxes are much higher on developed land.

EMNRD indicates that in spite of this fact and despite the fact that MRGCD has also enjoyed cash balances of over \$20 million in recent years,- MRGCD has been unwilling to commit a proportional amount of its revenue to enhancing trails and recreation benefits for urban valley dwellers - many of whom are required to pay taxes to MRGCD but do not irrigate with MRGCD surface water.

EMNRD states that paramount for many Albuquerque citizens - and MRGCD's own ratepayers - have been requests that MRGCD support more formal utilization of its ditches and drains as a rustic trail network. For the past 20 years, Valley residents, local neighborhood organizations, and people who use MRGCD's hundreds of miles of ditches for walking, jogging, horseback riding, and cycling have repeatedly proposed a more formalized, interconnected trails system to MRGCD and other state and local officials. A professional survey of its own rate payers commissioned by MRGCD in 2007 showed resounding support for a recreational trail system along the ditches in Bernalillo County. In fact, 83 percent of respondents to the MRGCD survey said that they supported dedicating a share of their MRGCD taxes to recreational trails.

For years, however, MRGCD has maintained that liability concerns prevented it from encouraging and supporting recreation more formally. In 2007, the legislature enacted a new law to relieve MRGCD from liability associated with recreation if the district partnered with other governmental entities for trail use. MRGCD, however, still has “No Trespassing” signs posted on most ditches and drains, and this past July the MRGCD abruptly cancelled its involvement in a recreational trails pilot project that had been underway for over three years. SB 222 appears to be responding to strong public demand from within Bernalillo County - and from the Valley portions of Bernalillo County in particular - that MRGCD move more aggressively to implement a formal, and much more extensive, recreational trails program.

A successful effort to establish such a program will benefit public recreation and outdoor education in the state’s largest metropolitan area, and it would provide additional support for maintaining the portion of the Rio Grande Trail that currently exists within Bernalillo County (and the Rio Grande Valley State Park) - which is the paved, multi-use trail known as the “Paseo del Bosque Trail.”

### **PERFORMANCE IMPLICATIONS**

Conservancy Districts were established by Section 73-14-4 for the purpose of preventing floods; regulating stream channels; diverting, controlling watercourses; reclamation of wetlands; provide irrigation where it is needed for the development of agricultural lands; and protect public and private property from flooding. Section 73-14-2 further defines Conservancy Districts must act to preserve health, safety, convenience and welfare either in cooperation with the United States government or federal laws.

EMNRD reports that the Middle Rio Grande Conservancy District is currently in the process of complying with FEMA levee requirements. The district maintains 150 miles of levees, located in the counties of Bernalillo, Sandoval, Socorro, and Valencia. 50 miles of those levees are located within Albuquerque. The levees within the district were constructed by the Army Corps in the 1950’s and do not meet engineering standards. Estimated cost of complying with this engineering standard federal requirement is \$23 million. To date, the district has paid out \$4 million toward meeting this requirement, but had to dip into their reserve in order to do so.

Residents of properties located within the potential flood area where levees do not meet federal engineering standards now have to purchase homeowners flood insurance. For properties appraised at a \$250 thousand median the estimated annual cost of flood insurance is \$4.5 thousand.

### **ADMINISTRATIVE IMPLICATIONS**

The administrative impact will be on the Middle Rio Grande Conservancy District, the city of Albuquerque, Los Ranchos of Albuquerque, Bernalillo County, and the Mid-Regional Council of Governments.

**TECHNICAL ISSUES**

The Conservancy Acts were established for a very specific purpose of managing watercourses and preventing floods. Districts are formed through the election process.

The intent of the Trails Program is to establish trails along the ditch banks for recreational purposes, and does not fall within the purpose of the Conservancy Act.

**ALTERNATIVES**

DFA suggests that a better alternative may be to apportion property tax from the open space act of Bernalillo County.

GM/mt