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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/11

SPONSOR Larrañaga LAST UPDATED \_\_\_\_\_ HB 31

SHORT TITLE Water Trust Fund Investment Standard of Care SB \_\_\_\_\_

ANALYST Burrows

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	NFI	NFI		

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB52, HJR1

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

State Investment Office (SIC)

Attorney General's Office (AGO)

New Mexico Finance Authority (NMFA)

### SUMMARY

#### Synopsis of Bill

House Bill 31 would amend Section 72-4A-8 NMSA 1978 which currently calls for the Water Trust Permanent Fund (WTPF) to be invested "as land grant permanent funds pursuant to Chapter 6 Article 8, NMSA 1978", and changes that language to "in accordance with limitations in Article 12, Section 7 of the Constitution of New Mexico."

This language change requires the WTPF be invested with the same statutory limitations that currently exist on the investment of the Land Grant Permanent Fund (LGPF) under the Uniform Prudent Investor Act, but does not require the WTPF to be invested in a mirror image of the LGPF.

### FISCAL IMPLICATIONS

The SIC advises that there will be no fiscal impact as a result of this legislation. However, the WTPF may be invested in a more conservative manner over time, which could have a future impact on the corpus of the fund.

## **SIGNIFICANT ISSUES**

Under current law, the WTPF must be invested in an identical manner as the LGPF. This bill will loosen the investment requirements of the WTPF so that they are more in line with the fund size and purpose, but will retain restrictions on the general composition of the portfolio.

According to the SIC, by its very nature a \$10 billion fund like the LGPF should have a different investment profile than a \$40 million fund like the WTPF, and it should be up to the Council to assess the level of risk and reward that is most appropriate for each fund individually.

The SIC also notes that due to the continually diminishing nature of the WTPF, there are certain types of long-term investments made in the Land Grant Permanent Fund (LGPF), like private equity, real estate and hedge funds, which may simply not be appropriate for the WTPF.

## **PERFORMANCE IMPLICATIONS**

The SIC reports the current \$4 million annual distributions from the WTPF amount to approximately 10% of the fund corpus, a number that will likely grow over time as the fund diminishes. This will lead to complications in making long term pro-rata investments in ventures like private equity, where commitments and partnerships can often last for 10 to 15 years. Such complications could eventually affect investment performance.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 52 proposes the same investment standards for the Tobacco Settlement Permanent Fund.

House Joint Resolution 1 proposes to amend Article 12, Section 7 of the Constitution in order to permanently increase the annual distributions for the land grant permanent fund.

## **OTHER SUBSTANTIVE ISSUES**

House Bill 31 is dependent on a constitutional amendment of Article 12, Section 7. However, at the time of this analysis, no such resolution has been introduced.

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

The Water Trust Permanent Fund will continue to be invested in the same manner as the Land Grant Permanent Fund.

LKB/bym