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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/10/11  
**LAST UPDATED** 02/21/11    **HB** 442

**SPONSOR** Garcia, M.P.

**SHORT TITLE** Limit MRGCD Assessments    **SB** \_\_\_\_\_

**ANALYST** Kleats

### REVENUE (dollars in thousands)

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

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to and Conflicts with HBs 258 and 443

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		NFI		NFI		Other Local Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)

Office of the State Engineer/Interstate Stream Commission (OSE/ISC)

#### Responses Not Received From

Taxation and Revenue Department (TRD)

Energy, Minerals and Natural Resources Department (EMNRD)

### SUMMARY

#### Synopsis of Bill

House Bill 442 enacts a new section of 73-16 NMSA 1978 to limit total annual assessments of the Middle Rio Grande Conservancy District (MRGCD) to no more than 110% of its budgeted annual expenditures.

**FISCAL IMPLICATIONS**

HB 442 presents no fiscal impact to the general fund.

This analysis of HB 442 assumes “total annual assessments” to mean the ad valorem assessments set by MRGCD.

As shown in the tables below using revenue and expenditure data available from MRGCD, ad valorem property taxes collected from county treasurers approached 100% of budgeted annual expenditures in only one year, FY2004. In fact, the trend has been a decrease in assessments as a percentage of expenditure illustrating property tax levies serve as one of many revenue sources for MRGCD.

Unless this trend reverses sharply, HB 442 may not prove binding to the assessments levied by MRGCD. Ad valorem collections would have to rise and budgeted expenditures fall in order for the 110% provision to affect MRGCD’s assessment decisions. There is no way to predict whether this would occur.

MRGCD Assessments and Expenditures, FY2003-2011 (dollars in thousands)

	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011
<b>Ad Valorem Assessments</b>	\$9,262	\$11,568	\$11,248	\$11,553	\$11,246	\$11,147	\$11,818	\$11,278	\$12,390
<b>Total Budgeted Expenditures</b>	--	--	\$13,992	\$15,021	\$17,612	\$18,371	\$23,212	\$18,126	\$19,222
<b>Total Actual Expenditures</b>	\$12,147	\$12,183	\$12,863	\$14,472	\$16,087	\$18,612	\$22,325	--	--

MRGCD Assessments as Percentage of Budgeted\* Expenditures, FY2003-2011

	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011
<b>Assessments as Percentage of Expenditure</b>	76.25%	94.95%	80.39%	76.91%	63.85%	60.68%	50.91%	62.22%	64.46%

\*For years without an available budget, actual expenditure is used.

**SIGNIFICANT ISSUES**

MRGCD claims HB 442 makes no provisions for two important allocations of resources not covered under “budgeted annual expenditures.” MRGCD suggests HB 442 will hinder the maintenance of an adequate emergency fund and preclude having funds available for federal cost share projects. As an example of the latter, MRGCD notes the Albuquerque West Levee Project having delinquent cost share funds of approximately \$4 million.

DFA confirms cash and investment revenue are set aside for unanticipated catastrophic events and MRGCD’s projects can reach a multi-million dollar cost. DFA also notes MRGCD imposed a levy of 3.97 mills for residential and 4.96 mills for non-residential properties within the district. These mill rates are well below the statutory maximum of 6 mills.

Though statute dictates a maximum mill rate, it also provides that the MRGCD board of directors may set the ad valorem assessment it deems necessary and appropriate within that maximum. MRGCD notes the constituents of the district elect its board members, and like all elected bodies, its constituency will hold the board to account for any mill rate increases along with the resulting increase in assessments.

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

HB 442 relates to and conflicts with House Bills 258 and 443.

HB 258 introduces a new section to 73-16 NMSA 1978 requiring that MRGCD assess non-irrigators at least one mill less than irrigators.

HB 443 introduces a new section to 73-16 NMSA 1978 requiring that MRGCD not increase the total assessments to be collected in FY2011 for any purpose before January 1, 2014.

HBs 258, 442 and 443 create conflict between each other by proposing the same title for each distinct section.

### **TECHNICAL ISSUES**

Current statute provides for and sets limits on assessment by conservancy districts across Chapter 73, Articles 14 through 18 NMSA 1978. HB 442 possibly contradicts language in those statutes especially Section 73-16-2A NMSA 1978, which gives the board of directors authority to set “a uniform assessment upon the property within the district not to exceed six (6) mills for every dollar of assessed valuation thereof...” HB 442 may have to introduce amendments to sections of the original statute to prevent contradiction.

### **OTHER SUBSTANTIVE ISSUES**

MRGCD reaffirms its budget process is open and transparent, and the constituents of the district are free to attend its meetings. The budget is subject to approval by the DFA, and MRGCD is subject to the State Audit Act, the Open Meetings Act and the Inspection of Public Records Act.

### **ALTERNATIVES**

Consider adding the new material proposed by HB 442 as an amendment to current statute concerning assessments by conservancy districts. The benefit of this approach is twofold: contradiction between HB 442 and current statute would be reduced or eliminated; and conflict between HBs 258 and 443 would no longer exist.

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

The intent of the bill appears to be to prevent persistent and sizable surpluses by MRGCD. Although the provisions set forth by HB 442 would not currently bind the assessments levied by the MRGCD, it is possible they will in the future, but no evidence suggests such surpluses will or won't occur.