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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/11

SPONSOR Garcia, M.P. LAST UPDATED \_\_\_\_\_ HB 443

SHORT TITLE Cap MRGCD Assessments Until 2014 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

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

#### Responses Not Received From

Department of Finance and Administration (DFA)

Taxation and Revenue Department (TRD)

Energy, Minerals and Natural Resources Department (EMNRD)

### SUMMARY

#### Synopsis of Bill

House Bill 443 enacts a new section of 73-16 NMSA 1978 to freeze total assessments of the Middle Rio Grande Conservancy District (MRGCD) to be collected in FY2011 for any purpose before January 1, 2014.

## **FISCAL IMPLICATIONS**

HB 443 presents no fiscal impact to the general fund.

This analysis assumes a strict interpretation of the new material proposed by HB 443. Under this interpretation, HB 443 only affects assessments to be collected in FY2011, over half of which has already passed. In fact, the stipulations introduced by HB 443 might only apply to late or delinquent payments for property tax due in FY2011 and prohibit MRGCD from assessing any fines or penalties on those late or delinquent payments.

## **SIGNIFICANT ISSUES**

MRGCD suggests HB 443 could 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. This analysis has found no indication FY2011 revenues would be affected in a way to support MRGCD's assertions.

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.

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

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

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 442 introduces a new section to 73-16 NMSA 1978 to limit total annual assessments of the MRGCD to no more than 110% of its budgeted annual expenditures.

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

## **TECHNICAL ISSUES**

It is the understanding of both the LFC and DFA Local Government Division that assessments levied by MRGCD are not subject to yield control provisions. HB 443 may mimic the characteristics or intent of yield control legislation, but it does not use language similar to other statutory yield control provisions.

Current statute provides for and sets limits on assessment by conservancy districts across Chapter 73, Articles 14 through 18 NMSA 1978. HB 443 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 443 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.

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.

**ALTERNATIVES**

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

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