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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/19
LAST UPDATED 2/6/19 **HB** 38/aHAWC

SPONSOR Garcia, M. P.

SHORT TITLE ABQ-Bernalillo Water Authority Water Rights **SB** _____

ANALYST Chabot

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

New Mexico Public Regulation Commission (PRC)

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

SUMMARY

Synopsis of HAWC Amendment

The Agriculture and Water Resources Committee amendment to House Bill 38 replaces the word “acquiring” with “condemning” in the title and in the bill which would allow the Albuquerque-Bernalillo County to obtain water rights through other means than condemnation. It also addresses the NMAG concern about the definition Rio Grande Basin by stating the bill pertains to water rights appurtenant to irrigable land within the “territory drained by the Rio Grande between the United States gaging station at Otowi bridge and the gaging station below Elephant Butte Dam.”

Synopsis of Original Bill

House Bill 38 amends Section 72-1-10 NMSA to eliminate the Albuquerque Bernalillo County Water Utility Authority right to obtain water rights appurtenant to irrigable land within the Rio Grande basin pursuant to the provisions of the Eminent Domain Code.

FISCAL IMPLICATIONS

No agencies identified any fiscal issues with the legislation; however, it may make obtaining additional water rights more difficult and costly.

SIGNIFICANT ISSUES

NMAG observes that the Rio Grande basin is not defined in the bill or whether the Rio Grande Compact is included in the term. Using the compact definition, the term Rio Grande Basin means all of the territory drained by the Rio Grande and its tributaries in Colorado, in New Mexico, and in Texas above Fort Quitman, including the Closed Basin in Colorado. Without a clear definition, there is a significant risk of inconsistent interpretation and application of the law.

PRC opines this bill would limit the rights of the State Engineer to acquire or condemn water rights under the State Water Plan. OSE states this will would hamper the ABCWUA from obtaining additional water rights and comply with existing permits issued by the State Engineer.

None of the responding agencies commented on how often ABCWUA has used the Eminent Domain Code to obtain water rights or whether such action was contemplated. Informal contact with the authority director indicates such action has not been used.

GAC/gb/sb