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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/17

SPONSOR Wirth LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Interstate Stream Commission Membership SB 157

ANALYST Armstrong

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>			None			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

NM Attorney General's Office (NMAG)  
Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of Bill

Senate Bill 157 (SB157) repeals and replaces existing statute regarding the membership and organization of the Interstate Stream Commission (ISC). Currently, ISC has nine members, all appointed by the governor, including the state engineer and at least one member of a Native American tribe or pueblo. Under SB157, ISC remains a nine member body and includes the state engineer. However, four members are to be appointed by the Legislative Council and the remaining four to be appointed by the governor with the advice and consent of the New Mexico Senate. The bill also requires that only two members appointed by either the governor or the Legislative Council be from the same political party.

The governor's appointees are required to represent an irrigation or conservancy district, an acequia or community ditch, a drinking water utility, and a tribe or pueblo. The Legislative Council's appointees must include representatives from an irrigation or conservancy district; the Water Resources Research Institute (WRRI), the University of New Mexico, or New Mexico State University; a professional hydrologist; and a nongovernmental conservation organization. Each member must have at least 10 years of experience with water resources in New Mexico and would serve a staggered term of five years, however, initial members would be decided by drawing lots-with one serving for two years, one for three years, two for four years, and one for five years. Members may be removed by the appointing authority for missing three consecutive meetings, or for cause.

## FISCAL IMPLICATIONS

None.

## SIGNIFICANT ISSUES

ISC is authorized to investigate water supply and to develop, conserve, and protect the waters and stream systems of New Mexico, interstate or otherwise. Current statute only requires that ISC members be “representative of major irrigation districts or sections” of the State, with no two members from the same district or section. This could result in a governor appointing a commission that represents solely agricultural, municipal, conservation, or other interests, as long as the members represent different geographic areas. SB157 prevents such a scenario by ensuring a variety of expertise and perspectives are represented and by allowing appointments by the Legislature as well as the executive. By requiring certain representation on ISC, SB157 broadens the composition of interests on the commission and ensures a variety of expertise will be included in setting water policy.

According to ISC analysis:

Irrigators hold the majority of the senior water rights in the major stream systems across the State. Since 78 percent of the water use in New Mexico is for agricultural purposes, the current statute’s membership requirement is very appropriate. Senate Bill 157, however, would provide that, in the future, only three members of the ISC would represent agricultural interests. This proposed change would dramatically reduce the representation of the agricultural sector, and actual water users, on the Commission.

Changing the membership of the Commission would cause significant disruption to the Commission’s operations at a time when New Mexico is 1) continuing to deal with major issues related to management of its scarce water resources, including long-term drought conditions in many of its river basins; and, 2) defending significant external threats to New Mexico’s use of its water, including a lawsuit brought by Texas in the United States Supreme Court. The current membership has significant individual expertise across a wide range of water resources issues. This includes decades of experience in irrigated agriculture, ranching, rural water, major municipal water use, mining, oil and gas, and Pueblo water resources management. In addition, current members are well-versed in the details of ISC activities to lessen the impact of the drought on New Mexicans, to proactively address endangered species and water user conflicts, to ensure continued interstate compact compliance, and to manage litigation threats over New Mexico’s water. At least 4 of the appointed Commissioners have served on the Commission for the past 14 years, providing continuity across administrations.

Currently, all nine of the members are appointed by the Governor. However, this bill greatly diminishes the authority of the executive to appoint in favor of either legislative appointment or legislative veto power over gubernatorial appointments. Specifically, Sections 1.A.(2) and 1.A.(3) of the bill amend the current process by providing four members of the commission be appointed by the Governor, but only with the advice and consent of the senate, and the other four members are appointed by the New Mexico legislative council, with the advice and consent of the senate.

**TECHNICAL ISSUES**

SB157, on page 2, lines 18 through 21, requires one member from WRRI or the civil or environmental engineering faculty of New Mexico State University or the University of New Mexico, excluding similar faculty members from other New Mexico universities.

On page 3, line 14, and page 4, line 19, the bill refers to commission members as being “qualified” in addition to appointed, however, the term is undefined.

Page 3, lines 23 through 24, requires ISC to elect a chair and vice-chair, but is silent on the frequency of the elections.

JA/al