City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2015-___

OSE Hearing Procedures

SPONSOR(S): Councilor Maestas

SUMMARY: The proposed resolution supports legislation amending the Office of the State Engineer's hearing procedures, NMSA 1978, § 72-7-1 and NMSA 1978, § 72-2-16.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: August 12, 2015

ATTACHMENTS: Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-__

INTRODUCED BY:

Councilor Joseph M. Maestas

A RESOLUTION

SUPPORTING LEGISLATION AMENDING THE OSE'S HEARING PROCEDURES, NMSA 1978, § 72-7-1 AND NMSA 1978, §72-2-16.

WHEREAS, the Office of the State Engineer (OSE) administrative hearing process has become more time consuming and expensive for all applicants, particularly for municipalities, counties, and political subdivisions that provide potable water;

WHEREAS, much of the delay and expense relates to legal arguments being made in the administrative context and then challenged in district court;

WHEREAS, historically the OSE reviewed applications on a technical basis rather than to test novel legal arguments;

WHEREAS, in the 2015 Regular Session of the Legislature, Representative Bandy introduced House Bill 265;

WHEREAS, HB 265 proposed to amend NMSA 1978, § 72-7-1 to provide that if the OSE does not issue a final decision on any matter that has been pending before the OSE for one year or longer, the applicant has one year to file a notice of appeal in the district court; and

WHEREAS, previously proposed legislation gave an applicant a choice of pursuing contested applications either in the state administrative hearing process or in the district court amending NMSA 1978, § 72-2-16;and

WHEREAS, the City of Santa Fe supports both prompt decision making by the OSE as well as the ability to choose the forum in which the City's contested applications for water rights will be heard.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Governing Body supports legislation to amend NMSA 1978, § 72-7-1 and §72-2-16, regarding appeals to the district court and initial review of contested applications before the district court.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the State legislative delegation serving the City of Santa Fe.

PASSED, APPROVED AND ADOPTED this _____day of _____, 2015.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

Kelley A. Brennan

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Resolutions 2015/OSE Hearing Procedures

FIR No. 2700

City of Santa Fe
Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. **General Information**

(Check) Bill: _____ Resolution: ___X___
(A single FIR may be used for related bills and/or resolutions)
Short Title(s): **A RESOLUTION SUPPORTING LEGISLATION AMENDING THE OSE'S HEARING PROCEDURES, NMSA 1978, § 72-7-1 AND NMSA 1978, §72-2-16.**

Sponsor(s): Councilor Maestas

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman Date: 08/12/15 Phone: 955-6501

Reviewed by City Attorney: Kelly A. Brennan (Signature) Date: 8/13/15

Reviewed by Finance Director: [signature] (Signature) Date: 8-14-2015

Section B. **Summary**
Briefly explain the purpose and major provisions of the bill/resolution:
The proposed resolution supports legislation amending the Office of the State Engineer's hearing procedures, NMSA 1978, § 72-7-1 AND NMSA 1978, § 72-2-16.

Section C. **Fiscal Impact**
Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:
a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

____X____ Check here if no fiscal impact

Column #: 1	2	3	4	5	6	7	8
Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
Personnel*	$_____	_____	_____	$_____	_____	_____	_____
Fringe**	$_____	_____	_____	$_____	_____	_____	_____
Capital Outlay	$_____	_____	_____	$_____	_____	_____	_____
Land/ Building	$_____	_____	_____	$_____	_____	_____	_____
Professional Services	$_____	_____	_____	$_____	_____	_____	_____
All Other Operating Costs	$_____	_____	_____	$_____	_____	_____	_____
Total:	$_____			$_____			

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

a. To indicate new revenues and/or

b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #: 1	2	3	4	5	6
Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
_____	$_____	_____	$_____	_____	_____
_____	$_____	_____	$_____	_____	_____
_____	$_____	_____	$_____	_____	_____
Total:	$_____		$_____		

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

N/A

Section D. **General Narrative**

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None identified

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

None identified

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Previously, proposed legislation gave an applicant a choice of pursuing contested applications either in the state administrative hearing process or in the district court amending NMSA 1978, § 72-2-16. The proposed resolution would support both prompt decision making by the OSE as well as the ability to choose the forum in which the City's contested applications for water rights will be heard.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08