

By AVELINO MAESTAS

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State Rep. Mimi Stewart (D-Albuquerque) introduced a bill last week that would divide federal funding for water projects among the four counties in southwest New Mexico.

House Bill 42 would split \$66 million in Gila Settlement money tied to the Arizona Water Settlements Act and give an equal share to Catron, Grant, Hidalgo and Luna counties.

President Bush signed the AWSA in 2004, thereby giving New Mexico 10,000 acre-feet of water per year from the Gila River and an additional 4,000 acre-feet per year from the San Francisco River. The act also provides \$66 million for water development projects, with another \$62 million possible if the state constructs a diversion project for the water. If the state does not develop the water, it would revert to Arizona.

After the act was signed, representatives of the counties and municipalities in the affected region formed a Southwest Water Planning Group to discuss possible uses of the water. Meanwhile, the Interstate Stream Commission has begun a scientific study of the Gila, to form a knowledge base should any type of diversion be proposed.

Stewart's bill is based on a Gila Conservation Coalition proposal. Titled "Solving the Gila River Dilemma: The Four County Endowment," the proposal cites a GCC and ECONorthwest study that shows a diversion project will cost more than \$300 million, and might not be feasible from an environmental standpoint.

In addition, it advocates local decision-making regarding the \$66 million, a position Stewart said she shares.

"Each of the counties should really be responsible," Stewart said, "and not dictates from Santa Fe."

She told the Daily Press that the coalition has been working with other groups to ensure the first chunk of funding is used for local projects.

"That might be watershed renewal, or riparian restoration," she said, "or maybe even ensuring agriculture in the area is receiving all the water it needs."

Dutch Salmon, chairman of the GCC, said Stewart's bill is the best use of the \$66 million.

"It can be spent to meet any water-supply demand," he said, "which means virtually any water-related purpose that produces water."

According to Salmon, a diversion project along the Gila would be too costly, and would have a narrow impact on the state.

“It would take all of the subsidy money, which would be about \$128 million, and require another \$170 to finish the job,” Salmon said, “and it would all be directed to the Silver City area.”

Danielle Vick, Gila program manager for the Interstate Stream Commission, said the bill — as written — is causing some concern in her agency.

“Splitting up the money would ensure that no state water development would happen,” she said, “because there would not be enough capital to ensure we get the rest of the federal funding.”

According to Vick, the bill would also have environmental implications on the river.

“It would stop all the scientific work we’re already doing,” she said. “We’re trying to see what state the river is in now, with as many tools as we can get.”

Furthermore, Vick said, House Bill 42 might not be enforceable, due to restrictions within the Arizona Water Settlements Act.

“One of the provisions in the act is that the ISC has to approve any expenditure of funds,” Vick said. “If the New Mexico Legislature passes this, we’re not sure it’s legal, because it would be going above a federally passed act.”

An analysis of the bill reflects that argument. Prepared by the Legislative Finance Council, the analysis indicates House Bill 42 “may be an attempt to restrict the use” of federal funds, which “may not be in accordance with the terms of the AWSA or the procedures implemented by the Interstate Stream Commission.”

In addition, the analysis states the bill “might be construed as an attempt by the state Legislature to appropriate federal funds,” which has been prohibited by a New Mexico Supreme Court ruling.

Stewart said she will continue to push the bill through the Legislature, despite the findings in the legislative analysis.

“I think the analysis is incorrect,” she said. “People don’t realize the AWSA clearly says the first chunk of funds — \$66 million — is coming to the state for us to use for water issues in that four-county region.

“That’s just a given.”

According to Stewart, that funding will be dispersed to New Mexico over an 18-year period, beginning in 2012.

“The second part, which is \$62 million, will not come to the state unless we clearly divert 14,000 acre-feet from the Gila and San Francisco,” she said. “The first part is coming to us no matter what.”

Salmon said the \$66 million could be invested by each county, and then used for future water projects.

“It would be about \$16.5 million per county, which is a terrific amount of money for a rural county with a relatively small population,” he said. “If it were invested, rather than spent, it would produce about \$1 million a year in perpetuity to solve future water needs.”

House Bill 42 is in the House Agriculture and Water Resources Committee.

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