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## FISCAL IMPACT REPORT

**SPONSOR** Elias Barela                      **ORIGINAL DATE** 1-26-09  
**LAST UPDATED** 2-13-09                      **HB** 143/aHJC

**SHORT TITLE** Game and Fish Penalty Assessment Payments                      **SB** \_\_\_\_\_

**ANALYST** Woods

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)\*

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
\$56.8	\$56.8	\$56.8	Recurring	Game Protection Fund (19800)

(Parenthesis ( ) Indicate Revenue Decreases)

\* Estimates provided by agency

Duplicates, Relates to, Conflicts with, Companion to N/A

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Department of Game and Fish (DGF)

#### Synopsis of HJC Amendment

House Judiciary Committee amendment to HB143 effects the following:

1. On page 2, line 3, underline "Fishing rule infractions" and "17-2-7".
2. On page 2, line 4, underline "Upland game rule infractions" and "17-2-7".

## SUMMARY

### Synopsis of Original Bill

This bill would expand the number of minor game and fish violations eligible for a penalty assessment option. Fishing, manner and method, small game and waterfowl rule violations could become penalty assessments. Violations like hunting or fishing without a habitat stamp, two bass or quail over the bag limit, driving off-road while hunting would be penalty assessments. A violator cited for a violation of these or similar requirements, would be able to choose the penalty assessment option and agree to remit the penalty amount, rather than having to appear in magistrate court. The penalty assessment amounts as designated in the bill are:

- Fishing rule infractions - \$ 75.00 (17-2-7)
- Upland game rule infractions - \$100.00 (17-2-7)
- Waterfowl rule infractions - \$100.00 (17-2-7)
- Manner and method infractions - \$100.00 (17-2-7)

Fishing without a license and hunting small game without a license are the only infractions that currently have the penalty assessment option available and are already contained in §17-2-10.1.

It is the violator that chooses whether to take the penalty assessment or to appear before a magistrate judge. This is similar to minor traffic infractions and the citations associated with them.

Big game poaching is not part of this penalty assessment bill and would still require an alleged violator to go to magistrate court in the county where the violation occurred.

This bill has no general fund impact.

## FISCAL IMPLICATIONS

DGF notes that the department currently collects penalty assessment fees for 2 violations (fishing and hunting small game without a license). Annually, approximately 450 of the 800 people choosing the penalty assessment option pay the fine, resulting in a 56 percent compliance rate. Those that did not pay had their hunting and fishing license privileges revoked by the State Game Commission in accordance with 19.31.2 NMAC.

The proposed penalty assessment fees range is \$75 to \$100 which is consistent with the 2 previously established penalty assessments values from 1995. Based on the average value for the penalty assessments (PAs) outlined in the bill, times the estimated 650 violations annually, and assuming a 57 percent compliance rate, the Department will collect an estimated \$35,000.

It is estimated that the Department expends approximately the same amount as is received from current penalty assessments. These expenses are attributable to; tracking payments, office staff time, postage and equipment. The increased expenditures created by additional penalty assessments (estimated at an 80 percent increase, or new PA citations) would likely cost another \$30,000 in operating expenses to administer the necessary paperwork.

## **SIGNIFICANT ISSUES**

DGF indicates that the department has received complaints from individuals receiving citations stating that they would rather send in payment of a fine like a traffic ticket instead of having to take off of work and driving to court (often in a different location than their residence). By allowing the penalty assessment option for additional violations, the Department would more efficiently utilize conservation officers' time responding to citizen needs and less time on court proceedings. The average case for the Department takes about 6-8 hours of preparation, travel and trial time. Assuming 650 fewer appearances in court, this bill would allow for reallocation of approximately 4000-5000 hours or the equivalent of 2-2.5 additional positions. Officers could instead spend their time patrolling in the field or responding to citizen needs around the state. Additionally, the department also anticipates that the bill would also reduce magistrate court caseloads.

## **ADMINISTRATIVE IMPLICATIONS**

The department notes that additional training would have to occur; however, training is carried out on an annual basis for conservation officers and the department has qualified law enforcement instructors that could meet this obligation with no additional cost or minimal impact to its budget.

## **OTHER SUBSTANTIVE ISSUES**

DGF concludes that some individuals have noted that hunting big game without a license is only a one hundred dollar (\$100) fine (17-2-10.A.3 NMSA 1978) and have questioned the validity of having penalty assessments for small game and waterfowl at the same amount of the infraction-penalty. It should be noted that, this fine is only for the act of unlawful hunting, while any person that unlawfully kills or possesses a big game animal receives higher criminal penalties and the game animals is subject to seizure. Also second and subsequent violators have to pay higher penalties for hunting without a license (see 17-2-10 for fine scheduling and subsequent convictions).

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

DGF states, "Violators will continue to be cited and will have to appear in magistrate court for these types of infractions."

BW/mc