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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 111

SHORT TITLE: Water Law Violation Maximum Penalty

SPONSOR: Reps. Ortez and Romero, A/Sens. Stewart, Stefanics, and Townsend

LAST UPDATE: _____ **ORIGINAL DATE:** 1/26/2026 **ANALYST:** Davidson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
OSE	No fiscal impact	\$136.0 to \$170.0	\$136.0 to \$170.0	\$272.0 to \$340.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

New Mexico Attorney General
Office of the State Engineer

Agency or Agencies That Were Asked for Analysis but did not Respond

Tax and Revenue Department

SUMMARY

Synopsis of House Bill 111

House Bill 111 (HB111) amends several sections within Chapter 72 NMSA 1978, increasing the penalties for certain water law violations up to \$3,400 per day and providing the Office of the State Engineer (OSE) latitude to determine the amount of the civil penalty and the seriousness of the violation. The bill also stipulates that the penalty for water sold without a permit would be double the economic benefit to the violator or \$25 per barrel of water sold, whichever amount is greater.

The bill also changes the current practice of monetary penalties not being due until a hearing on the matter is complete to stating that the per-day penalty accrues from the date a violator receives notice of the violation from OSE.

The bill also would not allow OSE to pursue monetary penalties for over-diversion of water rights and limit such penalties to repayment of water. The bill also clarifies the new provisions created by the bill would not affect stream adjudication court orders in place prior to its effect.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

OSE notes the agency anticipates 10 violators would face penalties in FY27 and places the estimated total at \$34 thousand. OSE's analysis predicts that for FY28 only five violators would be penalized, resulting in a penalty revenue estimate of \$17 thousand.

OSE's analysis rests on the violations only happening for a day and ending there, resulting in a smaller estimated penalty revenue. LFC analysis from a previous iteration of the bill, House Bill 348 from the 2025 legislative session, estimated a higher total penalty amount at a lower maximum penalty violation per day (\$2,000 per day for House Bill 348). Due to the increased penalty amount proposed in the bill, LFC estimates the revenue from penalties to increase from \$4,000 to \$5,000 in civil penalties a year to \$136 thousand to \$170 thousand a year, predicated on OSE processing roughly 40 to 50 enforcements a year.

SIGNIFICANT ISSUES

OSE notes the maximum penalty for a water law violation was set in 1907 at \$100 per day and has not been changed since. OSE also notes moving the date of accrual to the date of notice of violation is issued, in conjunction with increasing the penalty to \$3,400 a day, could both encourage violators to immediately cease and act as a deterrent.

Analysis from OSE notes in most enforcement cases the agency seeks payback of water rather than money. This is typically done through compelling the enforced-on party to reduce future diversions by the quantity of water previously over-diverted or illegally taken. OSE has found this practice is a successful deterrent against future diversions or breakings of water law.

OSE notes:

Not all violations of the Water Code can be remedied through the payback of water. Some violations are not over-diversions at all; instead, they may be violations of metering or reporting requirements, or failure to comply with all regulations in the drilling of a well. Additionally, some violators of the Water Code may not have valid rights to satisfy a payback requirement. Therefore, monetary penalties are necessary to remedy these types of violations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB111 nearly duplicates House Bill 348 from the 2025 legislative session, with changes in penalty amounts and in the use of water to pay off regarding water law violations.

DA/sgs/hg/sgs