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## FISCAL IMPACT REPORT

SPONSOR: Tripp DATE TYPED: 01/29/03 HB 263

SHORT TITLE: State Engineer Decision Appeal SB \_\_\_\_\_

ANALYST: Chabot

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicated SB 54

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General

Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of Bill

House Bill 263 amends Section 72-2-16 pertaining to hearings before the State Engineer to allow a person aggrieved by a decision of the State Engineer's office to appeal the decision to either the State Engineer or the district court. If an individual elects to have a hearing before the State Engineer, no appeal may be made to the district court until the State Engineer has held a hearing and entered his decision in writing.

#### Significant Issues

Existing language would allow the State Engineer to make a decision without a public hearing. Any appeal would be to the district court. This bill would allow an individual to request a hearing on a State Engineer decision before appealing to the district court. The State Engineer's analysis states that currently a hearing before the State Engineer results in a low cost resolution

of complicated water rights matters and develops an administrative record of analysis and conclusions including the relevant and material documents in the water rights files. If an aggrieved party elects to by-pass the hearing process and appeals directly to the district court, this record will not be immediately available delay proceedings. In addition, they state that having different judges making decisions on water issues may lead to inconsistent opinions forcing appeals to the appellate courts to ensure consistency.

Proponents of the bill emphasize that the option to have a hearing before the State Engineer or proceeding to district court will speed the resolution process. If an applicant determines that the case will go ultimately to district court, the administrative hearing could be by-passed to shorten the overall process.

### **ADMINISTRATIVE IMPLICATIONS**

OSE states that increased costs may result in copying and reviewing files, preparing for court hearings and travel and per diem. However, these costs are not estimated and would need to be included in future budget requests.

### **TECHNICAL ISSUES**

OSE recommends the following changes:

1. Line 21, page 1: strike "A person" and insert "An applicant or a protestant".
2. Line 4, page 2: strike "a person" and insert "an applicant or protestant".

### **POSSIBLE QUESTIONS**

1. How will appealing directly to a district court instead of requesting a hearing before the State Engineer speed the process ?
2. Why would there be additional costs to the State Engineer if the appeal goes directly to the district court ?

**GAC/prr**