

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR:	Gubbels	DATE TYPED:	01/26/00	HB	168
SHORT TITLE:	State Engineer Enforcement Powers			SB	
				ANALYST:	Pickering

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
		Minimal - See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)

Office of the State Engineer/Interstate Stream Commission (OSE/ISC)

SUMMARY

Synopsis of Bill

HB168 would provide authority to the state engineer to enforce regulations, permits, licenses and orders of adjudication courts. The engineer can issue compliance orders and other enforcement powers including providing a penalty. Compliance orders may include suspension or revocation of a permit or license, repayment of water in amounts up to double over diversion or illegal diversion and, installation of measuring devices and payment of civil penalties for failure to comply with a final compliance order.

Significant Issues

Since the bill seeks to expand the enforcement powers of the engineer, it is possible that this will result in increased appeals being filed in district court by persons and other entities served with compliance orders. According to AOC, HB168 may similarly increase the number of district court civil actions by OSE for injunctive relief. Consequently, decisions made at the district court level also could increase the number of subsequent appeals to the appellate courts.

FISCAL IMPLICATIONS

AOC stated that passage of HB168 would cost the judicial system a one time cost of \$450 for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the actions by the state engineer under this law. New laws, amendments to existing laws, and new hearings have the potential to increase court caseloads which may require additional resources. OSE reports no fiscal impact to the agency. Payment of civil penalties would go to the general fund unless otherwise provided.

SUBSTANTIVE ISSUES

Under the provisions of HB168, OSE reported the engineer would only issue compliance orders to illegal or over-diverters of water. However, as water demands increase in the state, it is becoming apparent that illegal water use must be quickly addressed. This bill gives the state engineer alternative authority to move against such uses by issuing compliance orders and to issue a civil penalty up to \$100 per day for violation of a final order. Additionally no compliance order becomes final unless thirty days have elapsed and the violator has not sought a hearing before the engineer and/or appeal to the district court. This affords full due process in the issuance of compliance orders.

RP/njw:gm