FISCAL IMPACT REPORT

SPONSOR: Lundstrom   DATE TYPED: 01/30/03   HB   204

SHORT TITLE: Water Rights Adjudications   SB

                                              ANALYST: Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	**FY04**	**FY03**	**FY04**		
			$.01 (See Narrative)		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

House Bill 204 amends Section 72-4-15 NMSA 1978 to add B that would allow for alternative dispute resolution (ADR) for water rights determinations. This would be pursuant to the Governmental Alternative Dispute Resolution Act. Technical experts and witnesses would be allowed to participate.

Significant Issues

OSE states that this bill would mandate alternative dispute resolution in water rights adjudications. The language does not appear to be mandatory, but opens up alternative dispute resolution as an option to the water rights claimant.

OSE also states that this bill could impose a considerable additional burden to mediate or facili-tate a large number of subfiles within the adjudications. OSE does feel that adjudication is ap-

propriate in the larger adjudication involving Native American claims and acequias.

OSE reports that to initiate an adjudication, the case must be filed with the district court and the judge will have jurisdiction and decide how the case will be handled. The courts already have the authority to determine whether alternative dispute resolution is important.

FISCAL IMPLICATIONS

If all individuals involved in a water rights adjudication elect to pursue alternative dispute resolution, there could be a significant savings. However, since a legal decision is required to finalize an adjudication, if any individuals elects not to participate, the ADR efforts may not be recognized by the district court judge. In addition, the bill does not specify who or what agency is responsible for funding the ADR effort.

OSE states there will be significant costs (not quantified) in using alternative dispute resolution.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

OSE reports the bill conflicts with the provisions of the Governmental Dispute Resolution Act, Section 128A-3(A) that states "An agency may use an alternative dispute resolution procedure to resolve and dispute, issue or controversy….Alternative dispute resolution procedures are voluntary and may be used at the discretion of the agency."

TECHNICAL ISSUES

OSE recommends amending page 2, line 16-17 by striking "the attorney general or the office of the state engineer" and inserting "the attorneys for the State of New Mexico".

POSSIBLE QUESTIONS

1. How will ADR speed up the water rights adjudication process?
2. What is the impact on a basin-wide adjudication if one applicant does not what to participate in the ADR process?

GAC/njw:sb