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FISCAL IMPACT REPORT

ORIGINAL DATE
SPONSOR SCONC **LAST UPDATED** 02/27/13 **HB** _____

SHORT TITLE Penalties for No Boat Floatation Devices **SB** 94/SCONCS

ANALYST Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

SCONC Substitute for Senate Bill 94 (SB 94) establishes a new section in Chapter 16, Article 2 NMSA 1978, that provides for a penalty assessment misdemeanor for violation of any rule of the State Parks Division of the Energy, Minerals and Natural Resources Department promulgated pursuant to Chapter 16, Article 2 NMSA 1978. It also amends the Boat Act, Section 66-12-13, NMSA 1978, to provide that a penalty assessment misdemeanor, as used in Chapter 66, Article 12, NMSA 1978, means a violation of Section 66-12-7, 66-12-7.1, 66-12-10, or 66-12-14 NMSA 1978 or a rule of the State Parks Division promulgated pursuant to those sections. The penalty assessment for such violations is \$30.00. For a second conviction the penalty assessment is \$50.00. For a third or subsequent conviction the penalty assessment is \$150.00. This penalty assessment is in addition to any magistrate or metropolitan court costs. Penalty assessment misdemeanors do not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person or disappearance of a person, nor does it include a violation of Section 16-2-32 NMSA 1978.

The magistrate or metropolitan court in the county where the alleged violation occurred has jurisdiction for any case arising from a penalty assessment misdemeanor. Whenever a person is arrested for a violation of a penalty assessment misdemeanor, the officer shall advise the person of the option to either accept the penalty assessment and pay it to the court or appear in court.

The officer shall prepare a uniform non-traffic citation and prepare the penalty assessment and a notice to appear in court specifying the time and place to appear. The person shall sign the citation as a promise either to pay the penalty assessment to the court or to appear in court. If the person fails to appear or to pay the penalty assessment by the appearance date, the court may issue a warrant for failure to appear.

FISCAL IMPLICATIONS

No fiscal implications are identified.

SIGNIFICANT ISSUES

ENMRD notes that the bill allows park visitors to decide whether to accept the penalty assessment and pay the citation to the court or to appear in court to challenge the citation. Individuals cited for violation of the Boat Act or State Parks Division rules will be advised that they must contact the court whether they chose to pay the citation or appear in court to contest the citation. Currently, for violations of the State Parks Division rules or the Boat Act, individuals are issued citations for petty misdemeanors and must appear in court for the citation. They do not have the option to accept and pay a penalty assessment to the court instead.

“Penalty assessment misdemeanor” is used in the Game and Fish statutes and the Motor Vehicle Code (See NMSA 1978, Sections 17-2-10.1 through 17-2-10.3 and Sections 66-6-16, 66-8-116.3, 66-8-117). As with SB 94, both statutes have specific definitions defining what constitutes a penalty assessment misdemeanor and have provisions allowing an alleged violator to accept a notice to appear in lieu of a notice of penalty assessment.

MW/blm