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F I S C A L I M P A C T R E P O R T

SPONSOR:	Pearce	DATE TYPED:	02/03/00	HB	
SHORT TITLE:	Water Rights Adjudication			SB	346
				ANALYST:	Pickering

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	**FY01**	**FY00**	**FY01**		
			Indeterminate	Recurring	GF

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates House Bill 22

SOURCES OF INFORMATION

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

LFC Files

SUMMARY

Synopsis of Bill

SB 346 authorizes the state engineer to adopt procedures where water rights claims on stream system adjudications could be resolved through alternative dispute resolutions ("ADR"). The bill directs the engineer to adopt procedures providing the opportunity for ADR. These procedures may include negotiation conferences, mediation and arbitration.

Significant Issues

ADR is already in existence. In 1997, the Legislature appropriated additional funds to the agency for use in the state court adjudication, Turney v. Elephant Butte Irrigation District, et al. The funding was contingent upon agreement by all New Mexico parties to use ADR for this lower Rio Grande case. According to OSE, SB 346 appears to delegate considerable discretion to the state engineer in establishing ADR procedures. However, the agency perceives the bill as ambiguous on whether once involved in these procedures, a claimant would be precluded by statute from returning to the judicial forum for a full trail on the merits.

FISCAL IMPLICATIONS

OSE contends SB 346 could impose significant new costs in litigating water rights if ADR is extended statewide. As previously mentioned, the agency is concerned over the possibility that a claimant could participate in both ADR and in judicial hearings. It maintains a negative fiscal impact could occur if the engineer must deploy resources twice to address a particular claim: once for the ADR process, and once for the judicial process if a claimant is dissatisfied with the result of the ADR process.

ADMINISTRATIVE IMPLICATIONS / DUPLICATION

It is difficult for engineer to predict the impact at this time. However, if water rights claimants were able to bring their claims sequentially in an ADR forum and in a judicial forum, it is expected that the agency would devote significant resources to the duplicative proceedings.

SUBSTANTIVE ISSUES

Besides inviting the possibility of multiple proceedings, OSE believes the bill adds nothing to established law regarding negotiated settlements as binding upon district court approval. The engineer added that a settlement approved by a court is already binding on the parties.

RP/prr