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FISCAL IMPACT REPORT

SPONSOR: Adair DATE TYPED: 02/28/01 HB _____
 SHORT TITLE: Diversion of Water Offenses SB 462/aSFI #1
 ANALYST: Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI				

SOURCES OF INFORMATION

LFC Files
 Administrative Office of the Courts (AOC)
 Office of the State Engineer (SEO)

SUMMARY

Synopsis of the Senate Floor Amendment

This amendment moves the phrase “interfering with the exercise of a water right” to clarify the intent of the statute. The applicable portion of 72-8-1. OFFENSES now reads: Any person, association or corporation interfering with the exercise of a water right, or destroying any dam, headgate, weir benchmark or other appliance for the diversion, carriage, storage, apportionment or measurement of water or for any hydrographic surveys or who shall interfere with any person [or persons] engaged in the discharge of duties connected therewith shall be guilty of a misdemeanor and shall also be liable for the injury or damage resulting from such unlawful act.”

Synopsis of Original Bill

This bill amends Section 72-8-1 NMSA 1978. Any person who damages a dam, headgate, weir, benchmark or other appliance for the diversion, carriage, storage, apportionment or measurement of water or for any hydrographic surveys interfering with the exercise of a water right shall be guilty of a misdemeanor and liable for the damages.

Significant Issues

No significant issues were identified by AOC or SEO. The impact of the change can not be assessed. However, it is unclear what the new language is attempting to do. As currently written, any person who damages the listed items for any reason is guilty of a misdemeanor. The phrase “interfering with the exercise of a water right” would restrict the current meaning only to damage done because it interferes with a water right. Any other reason for damage would be excluded.

POSSIBLE QUESTIONS

1. Is it the intent of the bill to exclude all other damages as a misdemeanor when it was done for purpose other than interfering with a water right, e.g., malicious damage done for no apparent purpose?

GAC/njw:pr