

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/31/2025

Check all that apply:

Bill Number: SB210

Original Correction
Amendment Substitute

Sponsor: Sen. Pete Campos, Sen.
Antoinette Sedillo Lopez, and
Rep. Kathleen Cates

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

Short Title: MAX PENALTY FOR
WATER LAW VIOLATION

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Senate Bill (SB) 210 amends three sections of NMSA Chapter 72 (Water Law) to increase maximum penalties for violations, providing some guidance to the state engineer in determining the amount of the penalty in some instances, and provide for an annual increase in penalties to account for inflation.

Section 1 amends NMSA 1978, Section 72-2-18 to add that repayment of water is the preferred remedy for violations of that section and that the state engineer shall pursue penalties only for violations that don’t involve overdiversion of water or where repayment isn’t possible or sufficient to deter future violations. The section increases the maximum penalties for violations from \$100 per day to \$2,000 per day and provides that penalties may accrue from the date of a written notice of violation, rather than after a compliance order becomes final, as is currently provided. The penalty would not be enforceable, however, until the compliance order is final. Section 1 further requires the state engineer to consider the seriousness of the violation, as well as good faith efforts to comply with applicable requirements in determining the amount of the penalty, and states that the maximum penalty for selling overdiverted or illegally diverted water shall be double the economic benefit to the violator. Finally, the amendment requires the state engineer to adjust the maximum penalty annually, beginning in 2027, to increase by the percentage change in the consumer price index, not to exceed 150% of the current penalty amount, and post the maximum penalty amount for the next fiscal year on the state engineer’s website.

Section 2 similarly amends NMSA 1978, Section 72-5A-12 to increase penalties from \$100 per day to \$2,000 per day for violations of the Ground Water Storage Recovery Act or a permit or rules related to the Act, and requires the state engineer to increase the maximum penalty annually based on the consumer price index in the same manner set forth above.

Section 3 amends NMSA 1978, Section 72-12-14 to increase the maximum penalty for violating the conditions of a bond maintained as a prerequisite for a groundwater license from \$1,000 to \$10,000, and again, requires the state engineer to adjust the maximum penalty to account for inflation.

SB 210 also makes some non-substantive changes throughout to update the language in the statutory sections affected.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

N/A

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A