

LFC Requester:	Mark Weber
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**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Feb. 19, 2013
Bill No: HB 201(CS)--305

Sponsor: HAGC Substitute
Short State Engineer Appeals to
Title: District Court

Reviewing Attorney General's Office
Person Writing Stephen Farris
Phone: 222-9090 **Email** sfarris@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

HB 201 amends Section 72-2-16 NMSA 1978 to provide that an applicant, on an application that has not been protested, may request the state engineer authorize an appeal of the state engineer’s decision, act or refusal to act directly to the district court. If the state engineer determines that an immediate appeal to district court (rather than a hearing by the state engineer) would materially advance the ultimate termination of the proceeding, the state engineer shall state so in a written order specifying the issue or issues to be addressed on appeal to the district court. The applicant shall then take the appeal to the district court pursuant to Section 72-7-1 NMSA 1978. If the state engineer does not authorize a direct appeal, the matter shall be set for hearing.

The bill further clarifies that an order by the state engineer to hold a hearing, refer the matter to mediation or alternative dispute resolution or the state engineer’s decision not to authorize a direct appeal to district court shall not constitute a decision for which the applicant may request a direct appeal to district court.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

SIGNIFICANT LEGAL ISSUES

None noted. It appears this bill preserves due process protections and may expedite final decisions on applications in certain circumstances.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

TECHNICAL ISSUES OR DRAFTING ERROR

OTHER SUBSTANTIVE LEGAL ISSUES

ALTERNATIVES TO ENACTING THIS BILL

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
AMENDMENTS NEEDED TO IMPROVE THIS BILL