

Fiscal Note Request SB0417, As Introduced

(continued)

5. Assuming that the intent of SB is not to re-open those water compacts that have already been approved by Congress and the Water Court, there will be no further fiscal impact on the Department of Justice over the 2005 biennium.

Judicial Branch

6. This legislation could potentially require the Water Court to adjust case dockets because applicable objection filings will take longer to hear. There is no fiscal impact.

Department of Environmental Quality

7. There is no fiscal impact.

FISCAL IMPACT:

Department of Natural Resources and Conservation

Program 25- Reserved Water Rights Compact Commission

	<u>FY 2004 Difference</u>	<u>FY 2005 Difference</u>
FTE	1.00	1.00
<u>Expenditures:</u>		
Personal Services	\$26,663	\$27,727
Operating Expenses	<u>75,000</u>	<u>75,000</u>
TOTAL	\$101,663	\$102,727
<u>Funding of Expenditures:</u>		
General Fund (01)	\$101,663	\$102,727
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	(\$101,663)	(\$102,727)

LONG-RANGE IMPACTS:

1. SB 417 would give political subdivisions that claim a right to the use of the water that is the subject of a compact negotiation standing to participate in compact negotiations. The bill would apply to compacts already negotiated and approved by Congress. It is unclear whether the bill applies to compacts that have been approved by the Water Court.
2. SB 417 also would give political subdivisions with standing to participate in negotiations, the right to object to temporary preliminary decrees and preliminary decrees. Thus the bill could potentially implicate the Fort Peck, Crow and Fort Belknap Water Compacts that have previously been negotiated but have not yet been approved by Congress.
3. SB 417 creates a de novo standard of review for any objections filed. This may require a full evidentiary trial before the Water Court. In the event that objections are filed to the above-mentioned compacts, litigation could ensue that would involve extensive discovery and expert testimony. It is likely that evidentiary trials in such matters would last for weeks.
4. Compacts have not yet been negotiated for the Blackfoot Tribe, the Confederated Salish and Kootenai Tribes (Flathead Reservation), the United States Fish and Wildlife Service or the United States Forest Service. These compact negotiations could also be subject to lengthy litigation under SB 417.
5. In the event that some or all of the previously approved compacts are re-opened, lengthy litigation could result in a fiscal impact on the Department of Justice