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FISCAL IMPACT REPORT

SPONSOR <u>SCONC</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/13/2024</u>
SHORT TITLE <u>Strategic Water Supply Program</u>	BILL <u>CS/Senate Bill</u>
	NUMBER <u>294/SCONCS</u>
	ANALYST <u>Carswell/Torres, Ismael/Wan</u>

APPROPRIATION* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	\$100,000.0	Nonrecurring	Severance Tax Bonding Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

REVENUE* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Bonding Capacity Available for Appropriation for Capital Outlay Projects		(\$100,000.0)	Up to (\$100,000.0)	Up to (\$100,000.0)		Nonrecurring	Severance Tax Bonding Fund Capacity

Parentheses () indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 300.

Sources of Information

LFC Files

Agency Analysis Received From
Office of the State Engineer (OSE)

Agency Analysis was Solicited but Not Received From
New Mexico Environment Department (NMED)
Department of Finance and Administration (DFA)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of SCONC Substitute for Senate Bill 294

The Senate Conservation Committee substitute for Senate Bill 294 authorizes the issuance of up to \$100 million in short-term severance tax bonds in FY25 through FY27 for the purpose of developing new water supplies for industrial use through the treatment of brackish water. The bill provides for several conditions that must be met before an issuance could occur. First, the Environment Department must certify the need for the issuance with concurrence from the Office of the State Engineer, the Indian Affairs Department, and the Economic Development Department. In certifying need, the Environment Department must demonstrate the price to be paid for treated water represents a fair market value; must have determined, in consultation with the State Engineer and Indian Affairs Department, that a brackish water treatment project will not impair existing water rights or adversely impact landowners; and must demonstrate that a selected contractor who will be paid with proceeds from an issuance has technology to treat water to standards for water quality estimated by the Water Quality Control Commission pursuant to the Water Quality Act.

SB294 specifies that 50 percent of any proceeds to the state resulting from resale of treated water purchased through the strategic water supply program shall be deposited into the severance tax bonding fund and 50 percent into the general fund. Water treatment projects associated with the program shall comply with all applicable laws, standards, and permit requirements to protect the environment and public health. Additionally, the bill requires the Environment Department to report to the Legislative Finance Committee and the interim natural resources committee by September 1, 2024, and semiannually thereafter on implementation of the strategic water supply program.

The bill defines “brackish water” and “treated brackish water.”

Any unencumbered balance from the proceeds of bonds issued pursuant to SB294 shall revert to the severance tax bonding fund two years from the issuance date of the bonds.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

FISCAL IMPLICATIONS

SB294 provides for continuing appropriations. LFC has concerns with including continuing appropriation language in statutory provisions because it reduces the ability of the Legislature to establish spending priorities in the future and commits future Legislatures to the spending decided on by the current membership.

SB294 would commit future revenue for capital projects to the strategic water supply program by earmarking up to \$100 million in bonding capacity from FY25 to FY27. Before issuances authorized by the bill were made, the bill would increase the severance tax bonding fund’s authorized but unissued commitments, with the effect of reducing bonding capacity available for appropriation by the Legislature by up to \$100 million through FY27.

Any issuances under SB294 would reduce the current year's bonding capacity, while the negative impact to future capacity would be reduced by the issuance amount. For instance, if \$50 million in short-term bonds were issued pursuant to SB294 in FY25, bonding capacity available for appropriation in FY26 would be reduced by \$50 million rather than the full \$100 million. If no issuance occurred in FY25, the full \$100 million would remain authorized in FY26 and would thus be unavailable for appropriation toward capital outlay projects. Given the conditions that must be met before an issuance can occur, including potential rulemaking by the Water Quality Control Commission, it is possible no issuance would occur until FY26 or later. In that event, future bonding capacity would be reduced at the higher end of the range estimated in this fiscal impact report.

At this time, the Legislative Finance Committee does not have information on the potential price the state may pay companies for the treated water nor the price at which the state may be able to expect to resell the water to end users, making it difficult to estimate the overall negative or positive revenue impact of the bill on the severance tax bonding fund or general fund.

SIGNIFICANT ISSUES

According to public information released by the Office of the Governor and the New Mexico Environment Department, the intention of the proposed strategic water supply program is for the state to enter contracts to purchase treated brackish and produced water for industrial use in order to spur private sector investment in the infrastructure required to develop an alternative water supply that could offset freshwater use. The state would then seek to resell the water to end users. SB294 specifies that the program is created to reduce reliance on freshwater and to further clean energy and advanced manufacturing that contributes to reductions in greenhouse gas emissions.

In January 2024, the Environment Department released a request for information (RFI) for the program. According to the document, the state would initially use the contracts to expand industrial uses of the treated water. The RFI also specifies the state's intention to ensure the demand for the treated water meets or exceeds the supply in order to minimize the need for storage. The RFI solicits technical and economic information about products, services, or suppliers to inform the state about the current market and to support a request for proposal process for potential vendors, which NMED expects to open in the summer of 2024. While the RFI seeks information on treatment of brackish and produced water, SB294 only mentions and defines brackish water and treated brackish water.

To reduce the quantity of dissolved solids, brackish water may be treated through reverse osmosis or other desalination processes. According to the American Membrane Technology Association, there are over 1,400 installed desalination plants in the United States, most of which are used to treat brackish groundwater. Most desalination plants are currently used for municipal purposes.

The Office of the State Engineer states the agency supports the bill because it would facilitate private investment in the treatment of brackish water, which could be a valuable source of additional water supply in certain parts of the state.

TECHNICAL ISSUES

OSE notes on page 2, line 23, “will consult” should be “has consulted.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB294 relates to SB300, which commits \$205.8 million in current and future bonding capacity to transportation projects.

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