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## F I S C A L   I M P A C T   R E P O R T

**SPONSOR** Herrera/Gonzales      **ORIGINAL DATE** 02/04/19      **LAST UPDATED** 02/07/19      **HB** 334/aHENRC  
**SHORT TITLE** Rural Water System Clean Water Pilot Project      **SB** \_\_\_\_\_  
**ANALYST** Hanika-Ortiz

### APPROPRIATION (dollars in thousands)

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY19</b>	<b>FY20</b>		
	\$900.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)  
Office of the State Engineer (OSE)  
New Mexico Environment Department (NMED)

### SUMMARY

#### Synopsis of HENRC Amendment

The House Energy, Environment and Natural Resources Committee amendment to House Bill 334 directs the appropriation to NMED as opposed to OSE, and adds San Juan county to the list of northern New Mexico counties participating in the pilot project.

#### Significant Issues

NMED would need to procure services and administer the contract and suggested an amendment to allow up to 4 percent of the appropriation to cover the agency's personnel costs. NMED noted its Drinking Water Bureau (DWB) already provides technical, managerial, and financial assistance to public water systems internally as well as through contracts with third-party assistance providers; therefore, has the infrastructure in place to perform the work as described.

According to NMED, many systems are managed and/or operated by community volunteers. As these volunteers age, there is little interest from the younger generation to manage. NMED's assistance is intended to build the capacity of water systems to function on their own. However, smaller systems often become dependent on third party-assistance to perform core operations.

The contract should be developed in a manner that promotes building the skillsets of water system staff and operators rather than performing the tasks for them on an intermittent basis.

**Synopsis of Original Bill**

House Bill 334 (HB 334) appropriates \$900 thousand from the general fund to OSE to use in 2020 through 2022 for contracting with “a statewide organization that has served rural water associations for more than ten years and has a track record of helping entities obtain funding from the water trust board to implement a three-year clean drinking water pilot project in northern New Mexico, including the counties of Rio Arriba, Taos, Colfax, Union, Mora, Harding, Los Alamos, Sandoval and Santa Fe, to provide technical assistance to rural and mutual domestic water systems with regard to operational, financial or managerial issues, including assistance with audits, engineering plans, legal plans or financial plans.” At the end of FY22, OSE would need to revert any unexpended or unencumbered balances to the general fund.

**FISCAL IMPLICATIONS**

The appropriation of \$900 thousand to OSE contained in this bill is a recurring expense to the general fund because it can be spent across fiscal years. The bill further provides that any unexpended or unencumbered balance remaining at the end of 2022 reverts to the general fund.

**SIGNIFICANT ISSUES**

NMAG noted that the bill seemed oddly vague. For example, “a statewide organization that has served rural water associations for more than ten years and has a track record of helping entities obtain funding from the water trust board” seems to describe a specific known entity, but no specific recipient of the funds is identified. Similarly, “a three-year clean drinking water pilot project in northern NM, including the counties of Rio Arriba, Taos, Colfax, Union, Mora, Harding, Los Alamos, Sandoval and Santa Fe” seems specific enough that it may already exist.

However, even if the bill favors a specific organization and a specific project, the NMAG went on to say, the Water Trust Board is statutorily charged with prioritizing proposed water projects and vetting funding recipients under NMSA 1978, §§ 72-4A-5, 72-4A-7 and its regulations. *See* 19.25.10 NMAC. The bill does not appear to conflict with these statutes and regulations.

OSE reported that operation of drinking water systems is not within its statutory authority. The New Mexico Environment Department (NMED) has statutory supervisory authority over mutual domestic water consumer associations specifically (Sec. 3-29-1 *et al* NMSA 1978), and drinking water quality in general, through the Water Quality Control Commission (Sec. 74-6-1 *et al* NMSA 1978). Thus, NMED has the appropriate relevant expertise to oversee this pilot project.

**ADMINISTRATIVE IMPLICATIONS**

Oversight of the contract for the pilot project may require additional FTE from OSE. However, OSE noted the funding would better fit under NMED or DFA’s Local Governments Division.

AHO/gb