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FISCAL IMPACT REPORT

SPONSOR Wirth **ORIGINAL DATE** 02/10/21
LAST UPDATED 02/18/21 **HB** _____
SHORT TITLE Interstate Stream Commission Members **SB** 212/aSCONC/aSJC
ANALYST Wan

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$100.0	\$100.0	\$200.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

University of New Mexico (UNM)

No Response Received

Governor's Office (GO)

New Mexico State University (NMSU)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment adds language specifying the State Engineer is included in the limit of five commissioners from the same political party. To the requirement that one commission member be a professional hydrogeologist with expertise in New Mexico groundwater resources or a professional engineer with a New Mexico consulting engineering practice in water resources or water utility engineering, the amendment adds that the professional hydrogeologist must also be a faculty member of the New Mexico Institute of Mining and Technology.

The amendment adds to the criteria for appointees that members of ISC must have at least 10 years' experience with New Mexico water resources and removes this language from another section of the bill. The amendment also changes and adds language regarding commissioners and candidates who change political parties so it is only a disqualifying factor for serving on the ISC if the change would result in more than five members being from one political party.

Synopsis of SCONC Amendment

The Senate Conservation Committee amendment replaces language regarding current members of the Interstate Stream Commission to clarify that they will continue in their positions until their “terms have expired and their successors” have been appointed “and qualified.”

Synopsis of Original Bill

Senate Bill 212 would repeal Section 72-14-1 NMSA 1978, which creates the Interstate Stream Commission (ISC) and establishes criteria for membership, and would replace it with material establishing the ISC with new criteria for membership.

SB212 establishes that the ISC consists of the State Engineer and eight members appointed by the governor and confirmed by the Senate. The bill specifies that no more than five members may be from the same political party and at least one must be from a New Mexico Indian nation, tribe, or pueblo. In addition to that criteria, membership must include four representatives of irrigation or conservancy districts, one representative of a New Mexico acequia or community ditch, one representative of a New Mexico drinking water utility that provides at least 500 acre-feet of water annually for domestic use, one member of the Water Resources Research Institute of New Mexico State University or the civil or environmental engineering faculty at the University of New Mexico, and one professional hydrogeologist with experience in New Mexico groundwater resources or professional engineer with a New Mexico consulting engineering practice in water resources or water utility engineering.

SB212 also requires that, except for the State Engineer: no more than two ISC members shall be from the same irrigation or conservancy district or from the same New Mexico Indian nation, tribe, or pueblo; no more than three members shall be from the same congressional district; and members shall be appointed from and reside in at least three different State Engineer water rights districts.

Additionally, SB212 requires ISC members have at least 10 years of experience with New Mexico water resources. The bill reduces the term appointees shall serve on the ISC from six to four years.

The effective date of this bill is July 1, 2021. ISC members serving as of that date shall continue in their positions until their replacements have been appointed.

FISCAL IMPLICATIONS

ISC staff anticipate that additional effort, likely requiring one additional FTE at an annual cost of \$100 thousand, will be required to identify candidates for ISC appointment and to track and report the terms and eligibility of Commissioners.

SIGNIFICANT ISSUES

The ISC is authorized to investigate water supply and to develop, conserve, and protect the waters and stream systems of New Mexico, interstate or otherwise. Current statute only requires that ISC members be “representative of major irrigation districts or sections” of the state, with no two members from the same district or section. This could result in a governor appointing a

commission that represents solely agricultural, municipal, conservation, or other interests, as long as the members represent different geographic areas. SB212 prevents such a scenario by ensuring a variety of expertise, interests, and perspectives are represented on the commission. Analysis from the University of New Mexico suggests enactment of SB212 could also improve stability and prevent political turmoil within the ISC.

However, the ISC membership criteria proposed by SB212 are much more specific than the requirements in current statute, which may increase the diversity of Commissioners' backgrounds, but may also increase the difficulty of finding qualified candidates. OSE/ISC provided the following analysis:

“Although it seems intended to ensure diverse representation on the ISC, ultimately SB212 would significantly restrict candidate selection in a way that would be detrimental to the Commission and its work for the people of New Mexico. SB212 outlines such extensive requirements for appointments to the ISC that it would [be] very difficult to identify [qualified candidates]. First, the candidate qualification requirements presented are so restrictive they will severely limit the number of eligible Commissioners. Second, by calling out political affiliation, this bill will unnecessarily politicize water management decisions. Third, the geographic restrictions will further limit the pool of eligible candidates by disqualifying candidates from the same congressional or state engineer water master districts.”

ADMINISTRATIVE IMPLICATIONS

OSE/ISC staff note that SB212 may pose administrative challenges, or would at least increase administrative workload, due to the greater complexity of identifying potential ISC candidates that meet the qualifications in the bill. As discussed in “Fiscal Implications,” ISC anticipates one new FTE would be required to identify candidates and to oversee terms and qualifications.

CW/sb/rl