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## FISCAL IMPACT REPORT

SPONSOR Romero, A. ORIGINAL DATE 1/28/22  
LAST UPDATED \_\_\_\_\_ HB 83  
SHORT TITLE Qualifications for Head of OSE SB \_\_\_\_\_  
ANALYST J. Torres

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Response Received From  
Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of Bill

House Bill 83 (HB83) expands the qualifications of the state engineer. Section 72-2-1 NMSA 1978 currently states that the state Engineer must be a “technically qualified and registered professional engineer under the Engineering and Land Surveying Practice Act.” HB83 adds that the state engineer can be a “qualified and appropriately credentialed geohydrologist, hydrologist, geologist or attorney.”

Other proposed modifications make this provision gender neutral.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

### FISCAL IMPLICATIONS

HB83 does not impact the state budget at this time.

The added qualifications in HB83 could impact OSE’s future budget if the typical pay-rate for credentialed geohydrologists, hydrologists, geologists, or attorneys is higher than that of licensed engineers.

## **SIGNIFICANT ISSUES**

OSE noted that the expansion of the candidate pool would facilitate the hiring of a state engineer and allow for differing views as to managing critical water resources. It appears that OSE supports the bill.

## **OTHER SUBSTANTIVE ISSUES**

OSE stated: “[u]nder the Engineering and Surveying Practice Act (ESPA), ‘any person in either public or private capacity practicing or offering to practice engineering or surveying shall be required to submit evidence that [s/]he is qualified to so practice and shall be licensed as provided in the [ESPA].’ Section 61-23-2 NMSA 1978. It goes on to state that ‘[n]o person except a licensed professional engineer shall be eligible to hold any responsible office or position for the state or any political subdivision of the state that includes the performance or responsible charge of engineering work.’ Section 61-23-27 NMSA 1978.

Holding the office of ‘State Engineer’ could be interpreted as either ‘practicing or offering to practice engineering.’ If the office holder is not a licensed professional engineer, then that person could be in violation of the ESPA.

Therefore, additional language may be needed to clarify that, if the person holding the office of State Engineer is not a licensed professional engineer, that person is not subject to the provisions of the ESPA.

In the alternative, the position of ‘State Engineer’ could be changed to a different title to avoid any confusion about whether the individual holding the position is holding himself or herself out to be an engineer.”

JT/rl/acv