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FISCAL IMPACT REPORT

SPONSOR Stefanics/Wirth/Ortez LAST UPDATED 2/20/23
ORIGINAL DATE 1/30/23
SHORT TITLE Strategic Water Reserve BILL NUMBER Senate Bill 167
ANALYST Sanchez

APPROPRIATION* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
	\$25,000.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From
Office of the State Engineer

SUMMARY

Synopsis of Senate Bill 167

Senate Bill 167 appropriates \$25 million from the general fund to the Interstate Stream Commission (within the Office of the State Engineer) for the purpose of expenditure to the Strategic Water Reserve.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The appropriation of \$25 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY24 shall not revert to the general fund.

SIGNIFICANT ISSUES

The Interstate Stream Commission (ISC) administers the Strategic Water Reserve (SWR), created in Section 72-14-3, NMSA 1978, to allow the ISC to:

“...Purchase or lease from willing sellers or lessors or receive through donation surface water or water rights or storage rights to compose the reserve. The commission may also purchase or lease from willing sellers or lessors or receive by donation underground water or water rights for the strategic water reserve for cessation of pumping or limited short-term stream augmentation...”

The SWR does not have a reliable revenue source and has not received a recurring appropriation from any state funding source, including the general fund, since its creation. The agency analysis explained:

“...[The SWR]is a critical and underutilized tool for the State of New Mexico in ensuring sufficient river flows for compact and species purposes. However, implementation of the Reserve has historically been hindered by insufficient and sporadic funding, as well as by limited staff capacity...”

Because most leases for water rights extend for the full 10-year duration allowed by statute, consistent funding is a key component of the success of this program. SWR has negotiated shorter leases in the past, but the agency contends that it will have much more success fulfilling its mission if it receives the funding appropriated in this bill.

Another note from both the agency’s analysis and the feedback received from affiliated conservation groups explains the longer expenditure window included in this bill, stating:

“Water transactions are complex and can take years to complete. Many water rights owners are hesitant or unwilling to begin negotiations or the due diligence required for water transactions without an assurance the state has the funding available to complete the transaction.”

ADMINISTRATIVE IMPLICATIONS

The analysis from the Office of the State Engineer specified there may be a need for additional administrative support to fulfill the oversight and management responsibilities that might result from increased funding and activity. However, the agency expressed confidence that it could fund the necessary staff through term positions using money in this appropriation.

SS/rl/ne