

LFC Requester:	Helen Gaussoin
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1/18/24
Bill No: HB 30

Sponsor: Rep. Debra M. Sariñana & Rep. Tara L. Lujan **Agency Name and Code Number:** Office of the State Engineer 550
Short Title: Use of Water in Oil & Gas Operations **Person Writing:** Jerri L. Pohl
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
\$0	\$0	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
\$0	\$0	\$0	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$0	\$0	\$0	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Companions with HB31
Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill would add new sections and amend the existing sections within the Oil and Gas Act to prohibit certain uses of fresh water in oil and gas operations; require an annual water use report; alphabetize definitions and add definitions for “fresh water”, “recycled produced water” “treated produced water” and “water pollution”.

Section 1 of this bill would prohibit the use of fresh water for oil and gas well drilling, construction and development at depths below the fresh water zone.

Section 2 of this bill would add definitions, including a definition of “fresh water” amongst others.

Section 3 of this bill would require producers to provide annual reporting on all water use during oil and gas development and post those reports on the division’s website.

FISCAL IMPLICATIONS

None are noted.

SIGNIFICANT ISSUES

The definition of “fresh water” proposed in HB 30 may conflict with provisions of the New Mexico Water Code as well as the federal United States Geological Survey (USGS) definition of that term.

The definition proposed in HB30 defines the term “fresh water” as follows:

- (1) water and underground waters containing less than ten thousand milligrams per liter of total dissolved solids;
- (2) water in lakes and playas, regardless of quality, unless the water exceeds ten thousand milligrams per liter of total dissolved solids and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water; and
- (3) the surface waters of streams regardless of the water quality within a given reach;

This proposed definition potentially conflicts with the definition of “nonpotable waters” under the New Mexico Water Code at NMSA 1978, Subsection 72-12-25(C). That provision defines “nonpotable water” as “water containing not less than one thousand parts per million of dissolved solids” at the depth specified in NMSA 1978, Subsection 72-12-25(A).

The proposed definition is in definite conflict with the USGS definition of freshwater, which is water containing less than 1,000 milligrams per liter of dissolved solids, most often salt. Water with 1,000 – 10,000 milligrams per liter are defined as “brackish water”. (Stanton, J.S., Anning, D.W., Brown, C.J., Moore, R.B., McGuire, V.L., Qi, S.L., Harris, A.C., Dennehy, K.F., McMahon, P.B., Degnan, J.R., and Böhlke, J.K., 2017, Brackish groundwater in the United States: U.S. Geological Survey Professional Paper 1833, 185 p., <https://doi.org/10.3133/pp1833>.)

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 31 also proposes the same definition change to “fresh water” creating the same issues.

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

This bill, if enacted, would require producers to report their water use to the Oil Conservation Division. This information is not currently collected in any comprehensive way. The reporting requirement would significantly aid the state in understanding water use in the oil and gas industry.

ALTERNATIVES

Retain the current definition of fresh water 19.11.1.7 NMAC which does not conflict with any other definition.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Water use is not reported on an annual basis.

AMENDMENTS

None