

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 31

Sponsor: Rep. Debra M. Sariñana & Rep. Tara L. Lujan
Short Title: Oil & Gas Liquid Spills & Protections

Agency Name and Code Number: Office of the State Engineer 550
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
\$0	\$750,000	Nonrecurring	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Undetermined	Undetermined	Undetermined	Recurring	General

(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	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 30
Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill would provide penalties for the spill or release of oil, produced water or other nondomestic liquid wastes, direct the division to adopt rules that are protective of public health, worker safety and natural resources, require the tracking of produced water, alphabetize and add definitions and make an appropriation for additional staff.

Section 1 would add new material concerning spills, leaks and other releases and describes the monetary penalties of those offenses.

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

Section 3 on this bill would amend NMSA 1978, Section 70-2-12 to bolster the divisions enforcement and reclamation powers and require rule making for protection of human life, worker safety and the environment.

Section 4 of this bill is a request for appropriation for additional staff to the division.

FISCAL IMPLICATIONS

None are noted.

SIGNIFICANT ISSUES

The definition of “fresh water” proposed in HB 31 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 HB31 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., McMahan, 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 are noted

ADMINISTRATIVE IMPLICATIONS

None are noted

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Companion bill HB30 also proposes the same definition change to “fresh water” creating the same issues.

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

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

The division will not have the additional enforcement and assessment powers set forth in the bill to protect human life, worker safety and the environment.

AMENDMENTS

None at this time