

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

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 X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 1/16/24

Bill No: HB 31

Sponsor: The Honorable Debra M.
Sarinana and Tara L. Lujan

Short Title: Oil & Gas Liquid Spills &
Protections

Agency Name and Code Number: 305 – New Mexico
Department of Justice

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	750	nonrecurring	

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

House Bill (HB) 31 would amend the Oil and Gas Act, 70-2-1 et seq. (“the Act”) in several respects. First, it would add a new section that would create civil penalties specifically for causing or contributing “to a spill, leak or other release into the environment” of nondomestic liquid wastes resulting from the oil and gas industry. Second, it would add several new definitions to the Act: “fresh water” “recycled produced water,” “treated produced water,” and “water pollution.” Third, the bill would mandate the Oil Conservation Division (“OCD”) to promulgate rules and arguably expand the scope of such rules with respect to produced water. The Act previously authorized such rules at the discretion of the OCD.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Page 1, lines 3-4: This bill would create civil penalties for any “spill, leak or other release” without further defining the standard for what would be a threshold amount of such a spill, leak or other release through a numerical or narrative standard.

Page 14, lines 14-17: Within the various rulemaking directives in Section 3 of this bill, it includes a broad prohibition against any owner or person (as defined in the Act) “to dispose, recycle or reuse produced water, recycled produced water or treated produced water in a manner that may result in water pollution.” This standard does not apparently require any proof of actual water pollution but only of the possibility (“may result”) of any water pollution as that term would be defined in Section 2 of the Bill (page 8, lines 18 – 24).

Page 14, line 25: This bill would mandate rules requiring clean up of any “spill, leak or other release” without further defining the standard for what would be a threshold amount of such a spill, leak or other release through a numerical or narrative standard.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

Increased regulatory obligations for OCD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates some of HB 30, Use of Water in Oil & Gas Operations, and also includes new rulemaking requirements and spill protections not proposed in HB 30. HB 30 would prohibit the use of fresh water in certain oil and gas operations, which is not inconsistent with this bill.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

To avoid the significant issue noted above of what minimal amount of nondomestic liquid would constitute a spill, leak or other release warranting remediation, the bill could incorporate the narrative definition of “water pollution” as proposed elsewhere in the bill.