

LFC Requester:	Cally Carswell
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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 1/24/24

Bill No: HB 211

Sponsor: Rep. Susan K. Herrera,
Rep. Kristina Ortez, Rep Kathleen
Cates, Rep. Ambrose Castellano &
Rep. Raymundo Lara
Short Title: Water Project Prioritization

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		
NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI	N/A	N/A

(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	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill would make changes to the Water Project Finance Act. Section 1 modifies the duties of the Water Trust Board, staffed by the New Mexico Finance Authority (NMFA), including modification of the types of projects authorized and prioritization of projects. Section 2 streamlines or modifies elements of project funding conditions including removal of project audit, project review, minimum project design life, water conservation plan and agency review/recommendation requirements as well as disallowance of use of project funding for fiscal agent fees. Section 3 proposes modifications to the use of money in the Water Project Fund (WPF) statutes that both temporarily alter the distribution to the Office of the State Engineer for water rights adjudications and temporarily remove requirements for legislative approval of projects through fiscal year 2029. Section 3 also establishes the Authority’s use of the WPF to include the hiring of contractors to provide financial and administrative capacity development and direct technical assistance on water projects. Section 4 alters the date of the Board’s required reporting to the Legislature.

FISCAL IMPLICATIONS

No indirect impacts. The OSE currently receives approximately \$2.7 million in annual appropriations from the amount dedicated each year for water rights adjudications. The temporary adjustment for dedications will ensure that at least this amount of money is available for OSE each year between FY25 and FY29.

In its FY25 budget request, the OSE is also seeking a one-time special appropriation of \$5 million from the Water Project Fund for water rights adjudications. That special appropriation is in the LFC FY25 budget recommendation. This bill should not affect that special appropriation.

SIGNIFICANT ISSUES

These changes will likely streamline and result in more robust staffing of the application, review and administration processes that the Board and Authority are charged with under the WPFA.

The bill in its current form removes all requirements for OSE and NMED review of applications. The agencies intend to streamline the review process, but not remove it entirely. Therefore, there is an amendment suggested at the bottom of this analysis to address this issue.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

This bill would modify elements of WPFA processes including the eligibility, selection and approval of projects.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

The bill temporarily reduces the amount of money dedicated to water rights adjudications between FY25 and FY29. Normally, 10% of the funds in the water project fund are dedicated to water rights adjudications. During fiscal years FY25 through FY29, that amount will be reduced. However, after FY29, the current language in the bill would increase the amount of money dedicated to water rights adjudications to 12%, instead of back up to 10%. Some proposed language for an amendment is offered below.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The existing process and eligibility for water project funding will remain unchanged.

AMENDMENTS

First proposed amendment:

To address the unintended consequence for the bill to increase the long-term dedication for adjudications from 10% to 12%, the language on page 6, lines 8-15, should be replaced with the following:

and twenty percent of the money dedicated for water rights adjudications shall be allocated to the administrative office of the courts for the courts' costs associated with adjudications. **Provided, however, that from July 1, 2024 through June 30, 2029, the lesser of four million dollars (\$4,000,000) or eight percent of all water project funds shall be dedicated to the state engineer for water rights adjudications, and two percent of all water project funds shall be dedicated to the administrative office of the courts for the courts' costs associated with water rights adjudications.**

Second proposed amendment:

To address the removal of all OSE and NMED review of applications, the OSE proposes the following amendment:

On Page 4, lines 19-21, remove the strikethrough on the language “after review and upon the recommendation of the state engineer and the department of environment”.