

LFC Requester:

Helen Gaussoin

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{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 2-2-24

Bill No: HB 301

Sponsor: Rep. William "Bill" R. Rehm
Rep. Mark Duncan
Rep. Dayan Hochman-Vigil
Rep. Patricia A. Lundstrom
Rep. Anthony Allison

**Agency Name
and Code
Number:**

State Land Office - 539

**Short
Title:** FUTURE WATER TRUST FUND

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
None	None	None		

(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	No fiscal impact	No fiscal impact	No fiscal impact			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HB 148 / SB 185 (Water Project Fund Projects), HB 201 (Water Project Fund), HB 211 (Water Project Prioritization), HB 237 Climate, Energy & Water Authority Act

Duplicates/Relates to Appropriation in the General Appropriation Act: Relates to HB 2 (\$100 million to DFA for the water projects fund for authorized FY24 water projects

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 301 creates the “Future Water Trust Fund” and the “Future Water Project Fund” as nonreverting funds in the state treasury. The state investment officer shall invest the Future Water Trust Fund using the same risk and return profile as that used for Land Grant Permanent Funds. The Legislature may appropriate any investment income in the Future Water Trust Fund to the Future Water Project Fund.

The Future Water Project Fund consists of distributions, appropriations, gifts, grants, donations, and income from investment of the fund. The State Engineer shall administer the fund (1) purchase water rights from outside the state, (2) conduct studies on and advocate for projects for the delivery of water to New Mexico from outside the state, and (3) fund projects in New Mexico for delivery of water that comes from outside the state.

FISCAL IMPLICATIONS

There are no fiscal impacts to the State Land Office.

SIGNIFICANT ISSUES

Establishing and maintaining adequate water supplies for communities is key to ensuring their health and wellbeing, as well as their ability to leverage economic opportunities. Establishing a permanent trust fund leveraged by State Investment Council investments, to the extent sufficient appropriations are made to seed the fund, would provide additional resources to meet the state’s water challenges. However, the restrictions on using the Future Water Project Fund money only for “out-of-state” water rights acquisitions would unnecessarily limit the deployment of much-needed money to address communities’ needs.

House Bill 301 raises policy questions regarding how New Mexico should meet its future water supply needs. The legislation grants the State Engineer authority to administer the Future Water Projects Fund and expend the money as appropriated by the Legislature. In contrast, projects funded from the existing Water Trust Fund must first be recommended to the Legislature by the Water Trust Board, which represents diverse interests and evaluates projects against various

criteria such as urgency of need, availability of matching funds and shovel readiness, before getting the approval of the Legislature.

It is also not clear how many implementable out-of-state related projects could be identified. New Mexico's neighboring states are also experiencing drought and water shortages, and federal courts have held that states may limit exports of water to other states to protect public welfare and promote conservation if it does not place an unreasonable burden on interstate commerce. *See, e.g., City of El Paso v. Reynolds*, 597 F. Supp. 694 (1984). Projects to deliver water from more distant states could be complex and costly.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

An alternative approach could be for OSE to gather data on water use, identify the range of vulnerabilities from most critical to least, and provide a list of recommended options to address those vulnerabilities to impacted communities (which can then make a request to the Water Trust Board).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

The bill could be amended to allow for in-state water rights acquisitions to provide communities more options and not restrict these additional resources to only projects with an out-of-state nexus.