

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 2/12/24

Bill No: HB 294s

Sponsor: Senate Conservation Committee **Agency Name and Code Number:** Office of the State Engineer 550
Person Writing Nat Chakeres
Short Title: Public Peace, Health, Safety Welfare **Phone:** (505) 231-4459 **Email:** Nathaniel.chakeres@ose.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	\$100,000	Nonrecurring	Severance tax bonds

(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 create a Strategic Water Supply Program, housed in the Environment Department (NMED), that would enter into contracts with private entities to acquire and manage treated brackish water.

The bill would authorize the issuance of up to \$100 million in short-term severance tax bonds in FY25 through 27 provided that the Environment Department, with concurrence with the OSE and Indian Affairs Department (IAD) and the Economic Development Department, certifies the need for the issuance of bonds to the Board of Finance. In so certifying, NMED must demonstrate that:

- 1) the price to be paid for treated brackish water represents a fair market value as determined by a market analysis of comparable sales;
- 2) NMED will consult with the OSE, IAD, and potentially impacted Indian nations, tribes and pueblos and determine that a brackish water treatment project will not impair existing water rights or adversely impact landowners; and
- 3) a selected contractor has demonstrated technology to treat water that meets applicable standards for water quality.

The revenue from any resulting sale of treated brackish water by the state would be split 50/50 between the severance tax bonding fund and the general fund.

This bill also provides that brackish water treatment projects associated with the Strategic Water Supply Program must comply with applicable state, tribal and local governmental standards, permit requirements and other provisions of law to protect the environment and public health.

The bill would require semiannual reporting by NMED to the legislative finance committee and the appropriate legislative interim committee dealing with natural resources on the implementation of the Strategic Water Supply Program.

The bill defines “brackish water” as water sourced from a brackish water aquifer that has a dissolved solids concentration between one thousand and ten thousand milligrams per liter, and

“treated brackish water” as water that has undergone a process in which brackish water has been reconditioned by mechanical or chemical means to remove or eliminate contaminants.

FISCAL IMPLICATIONS

The bill would enable up to \$100 million in short-term severance tax bonds to be issued or sold. Any unencumbered balance from the proceeds of these bonds shall revert to the severance tax bonding fund two years from the issuance date of the bonds.

If NMED re-sells treated brackish water that it acquires through the program, 50% of the proceeds would go to the severance tax bonding fund, and 50% of the proceeds would go to the general fund.

SIGNIFICANT ISSUES

SB 294 requires the Department of Environment to consult with the Office of the State Engineer to determine if water rights will be impaired by a brackish water project.

The legislation will empower the NMED to establish a program aimed at alleviating stress on water resources in a dry state grappling with substantial water supply challenges.

The OSE supports this bill, as it would create the framework for a program to spur private investment in the treatment of brackish water. In certain areas of the state, treated brackish water could be a valuable source of additional water supply for commercial, municipal, or industrial uses, enabling economic development in those areas without impairing existing water rights or straining existing supplies.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Memorial 14 requests reports, working groups, and legislative recommendations from NMSU and EMNRD regarding the incorporation of treated produced water into the Strategic Water Supply Program.

TECHNICAL ISSUES

In version .228336.2, on page 2, line 23, “will consult” should be “has consulted”.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state will not begin issuing bonds to incentivize the treatment of brackish water.

AMENDMENTS

Fix the technical issue noted above.