

LFC Requester:

AGENCY BILL ANALYSIS - 2025 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}

Date Prepared: 2/7/25 *Check all that apply:*
Bill Number: HB311 Original Correction
 Amendment Substitute

Sponsor: Representative Nathan Small **Agency Name** Economic Development
Short Title: RECLAIMED WATER ACT **and Code** Department
Title: **Number:** 41900
Person Writing Sara Gutierrez
Phone: **Email** Sara.gutierrez@edd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$800.0	\$824.0	\$848.7	\$2,472.7	Recurring	EDD OpBud

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 311 enacts the Reclaimed Water Act and provides a framework for the creation of local, non-profit, reclaimed water authorities, which would work with communities within their jurisdictions to promote the use of reclaimed water. The bill outlines the powers and responsibilities of the authorities, as well as provisions for certification and sale of reclaimed water. In essence this bill creates the opportunity for communities to create an independent water system utilizing any type of non-fresh water.

FISCAL IMPLICATIONS

Implementing the requirements would require up to seven additional FTE, including benefits and auxiliary costs, the expected funding requirement for FY26 would be a minimum of \$800 thousand.

SIGNIFICANT ISSUES

From an economic development perspective, this creates greater capacity and opportunity for business expansion and attraction. Having a local source of reclaimed water available could make a community more attractive to companies looking to expand or relocate within the jurisdiction of the reclaimed water authority.

This bill does not infringe upon water rights, and treated reclaimed water must meet standards established by the state of New Mexico for resale.

It is imperative that reclaimed water meet state standards before it can be sold, traded or used for any purpose. Under this legislation, there is no requirement that reclaimed water be certified. It does allow for the water quality control commission (WQCC) to adopt standards and procedures for the certification of reclaimed water. Any water meeting certification standards established by the WQCC must be in “sufficient condition to no longer require oversight or regulation necessary for wastewater or produced water”, essentially re-characterizing water that meets WQCC certification requirements as no longer wastewater or produced water. See Section 15(C).

HB311 fails to give the reclaimed water authority clear authority to apply for and implement required permits.

Section 5.A(21) provides that a reclaimed water authority “may...perform inspections of reclaimed water; inspect water quality; and assess fees, penalties and fines...” However, HB311 does not explain how those functions relate to provisions in Section 15 regarding special WQCC standards for “certified reclaimed water” and associated exclusions from protections and regulations in place for wastewater and produced water. HB311 also fails to give the WQCC the discretion to deny a request by any person for “standards and procedures for the certification of reclaimed water,” regardless of the merits and associated administrative record for the request. See Section 15.C.

Further, the bill does not explain what the reclaimed water authority would do with the revenue generated from fees, penalties and fines.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

To carry out the duties and responsibilities of the legislation, the Economic Development Department (EDD) would require additional staff in each of the six regions, and possibly an additional economist to manage the data and reporting.

The bill assigns several critical responsibilities to EDD, including:

- 1) Review and approval or denial of all requests to create a reclaimed water authority by municipalities and counties within 60 days of the application;
- 2) An advisory role (Cabinet Secretary or designee) on the board of directors of each reclaimed water authority;
- 3) Receive and review quarterly reports on authorities' activities;
- 4) Receive and review information submitted monthly by reclaimed water authorities, producers and wholesalers related to potential uses of reclaimed water and identification of potential customers for reclaimed water;
- 5) Upon request of a customer, retail water supplier, reclaimed water producer or reclaimed water wholesaler, provide all information submitted to the department related to potential sources and uses of reclaimed water;
- 6) Receive and review reports on the price charged per barrel of reclaimed water sold if there is no authority in any given jurisdiction.

While EDD does have the expertise to review the business plans submitted as part of the reclaimed water authority applications and has the capacity to provide analysis of local and regional economic data as it relates to potential economic development infrastructure projects or business expansions, it *does not* have the knowledge and expertise necessary to recognize whether the proposed sources and volumes of reclaimed water provided in an application are appropriate, and EDD should not be the sole entity responsible for the denial or approval of applications to create a reclaimed water authority. Furthermore, EDD does not have the relevant knowledge or expertise to provide meaningful input or oversight related to activities of a reclaimed water authority that involve regulatory compliance, water quality monitoring and treatment, enforcement against reclaimed water producers, suppliers or retailers, and other functions of a water utility that HB311 assigns to reclaimed water authorities.

Presumably, the purpose of making EDD the recipient of the reporting requirements for reclaimed water authorities, retailers, wholesalers and producers is to provide the Environment Department with the data necessary to perform data analysis and report to the legislature on the activities of the reclaimed water authorities, retailers, wholesalers and producers. EDD does not currently have the expertise, nor the staff to perform this type of data analysis and reporting.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

It is unclear how Section 13 relates to other provisions of HB311. Specifically, Section 13 introduces discussion of reclaimed water that is not under the jurisdiction of a reclaimed water authority. EDD is not provided with authority to enforce the reporting requirements in Section 13 for an unknown universe of reclaimed water suppliers and customers.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Would-be sellers and purchasers of reclaimed water would continue to rely on the existing marketplace to sell and buy reclaimed water in coordination with applicable water utilities and in accordance with water regulations.

AMENDMENTS