

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR	House Energy, Environment and Natural Resources Committee	LAST UPDATED	3/10/2025
		ORIGINAL DATE	1/26/25
			CS/CS/House Bill 137/HAAWCS/ HENRCS/aHAFc/ aHFI#1
SHORT TITLE	Strategic Water Supply Act	BILL NUMBER	aHFI#1
		ANALYST	Davidson/Graeser/ Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMED	No fiscal impact	Up to \$140.0	Up to \$140.0	Up to \$280.0	Recurring	Strategic Water Supply Program Fund

Parenttheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 178
Conflicts with Senate Bill 342
Relates to an appropriation in the General Appropriations Act

Sources of Information

LFC Files

Agency Analysis Received From
State Treasurer Office (STO)
Office of the State Engineer (OSE)
Environment Department (NMED)
Energy, Minerals and Natural Resources Department (EMNRD)
Department of Finance Administration (DFA)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HFI#1 Amendment to House Bill 137

The House Floor #1 amendment to House Bill 137 (HB137) adds language to the bill which requires any contracts awarded from the strategic water supply to provide public notice and a public hearing process. The amendment clarifies that a qualifying Indian pueblo, tribe, or nation can reside wholly or partially in the state. The amendment also provides language ensuring the state engineer will provide an opportunity for a qualified entity to object to a project. The amendment further increases the time a well cannot be drilled until last publication of notice from 10 days to 30 days.

Synopsis of HAFC Amendment to House Bill 137

The House Appropriations and Finance Committee amendment to House Bill 137 changes “reducing the state’s reliance on freshwater resources” to “enhancing the state’s fresh water resources” in the discussion of the Strategic Water Supply Program and strikes the appropriations from the bill.

Synopsis of HENRC Substitute for House Bill 137

The House Energy, Environment and Natural Resources Committee Substitute for House Bill 137 proposes to enact the Strategic Water Supply Act, creates the Strategic Water Supply Program, and authorizes the Office of the State Engineer (OSE) and the Environment Department (NMED) to award grants and loans to projects from the newly created strategic water supply program fund (SWSPF).

HB137 appropriates \$75 million from the general fund to the strategic water supply program fund for the purpose of funding water projects, stipulating the funds of the appropriation shall only be for eligible projects for deep brackish water. The bill also appropriates \$28.8 million to the board of regents of the New Mexico Institute of Mining and Technology to use for aquifer mapping and groundwater characterization and appropriates \$4 million from the general fund to the board of regents of New Mexico State University (NMSU) for the purpose of researching potential projects for the strategic water supply program.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

NMED analysis notes the department could need one additional personnel to implement and support strategic water supply work. Due to the bill stipulating participating agencies that are implementing the SWS Program can use funds from the strategic water supply program fund (SWSPF) to cover costs associated with implementation, NMED projected no general fund impact for implementation. The Office of the State Engineer (OSE) did not project any implementation costs.

The ability for NMED and OSE to draw down the proposed fund balance for administrative costs, in addition to issuing grants for treated brackish projects, could result in spending down fund balance to the point where agencies would need to request increased recurring revenue to fund the personnel tied to the fund.

SIGNIFICANT ISSUES

Brackish Water. The U.S. Geologic Survey (USGS) defines brackish water as water that has a total dissolved solids (TDS) level of 1,000 to 10 thousand. Further, OSE characterizes water that has a TDS level above 1,000 and is located deeper than 2,500 feet below the surface as deep non-potable water. This characterization is due to the water that is shallower than the deep non-potable water being “righted,” meaning it has potential for beneficial use, regardless of its level of salinity.

Deeper reserves of groundwater typically have TDS levels of 35 to 200 thousand and are, therefore, currently not used or characterized as righted water sources for beneficial use. If an entity plans to drill into these deeper aquifers, they must notify OSE, which does not technically own the water right of his entity but is the arbiter of the water.

[Analysis](#)¹ from the New Mexico Bureau of Geology and Minerals Resources notes brackish water in deep, confined aquifers is typically not a renewable resource. Bureau analysis further notes these reservoirs of groundwater cannot be replaced due to the common collapse of the aquifer pore spaces which held the water. Regarding the pumping of shallower brackish water reservoirs, sufficient hydrologic studies are necessary prior to extraction. Analysis from the bureau notes recovery of usable brackish water is between 40 to 90 percent, based on the source salinity and treatment technique.

Additionally, disposal of the remaining brine concentrate requires specialized technical handling. Typical disposal of brine solutions in inland areas is done with specialized Class 1 or Class V wells, similar to ones deployed at El Paso's Kay Bailey Hutchinson Brackish Water Desalination Facility. Disposal of brine concentrate there is done in a Class 1 well connected to a shallow formation found and utilized through extensive hydrologic studies to determine capacity and safety. Currently, research is underway to develop techniques to separate useful salts as salable products, but it remains prohibitively costly and is not widely used.

Currently, the state has one desalination plant in Alamogordo (see Attachment 1 for graphic of desalination plant), which is also home to the Brackish Groundwater National Desalination Research Facility.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB137 relates to Senate Bill 178, which would impose a fee of 5 cents per barrel but would restrict the use of produced water off the oilfield to research purposes only and creating an abandoned wells remediation fund.

The House Appropriations and Finance Committee substitute version of the General Appropriation Act contains \$40 million specified for the strategic water supply program, contingent on passage of the bill, not the \$75 million requested in the original HENRC committee substitute for HB137.

HB137 conflicts with Senate Bill 342 due to HB137 creating the strategic water supply program fund, which has language that closely mirrors the language used in Senate Bill 342 related to brackish water projects. Senate Bill 342 appropriates \$50 million from the general fund to Office of the State Engineer (OSE) for the purpose of planning, designing, and administering funds for brackish water project use, exploration, treatment, and aquifer characterization. Senate Bill 342 also appropriates \$16 million from the general fund to the New Mexico Institute of Mining and Technology (NMIMT) for the purpose of researching, monitoring, and supporting the development of technology associated with water projects related to aquifer monitoring and improved groundwater characterization. Senate Bill 342 also appropriates \$4 million from the general fund to New Mexico State University (NMSU) for the purpose of researching,

¹ https://geoinfo.nmt.edu/publications/periodicals/earthmatters/15/n2/em_v15_n2.pdf

monitoring, and supporting the development of technology associated with brackish water projects

TECHNICAL ISSUES

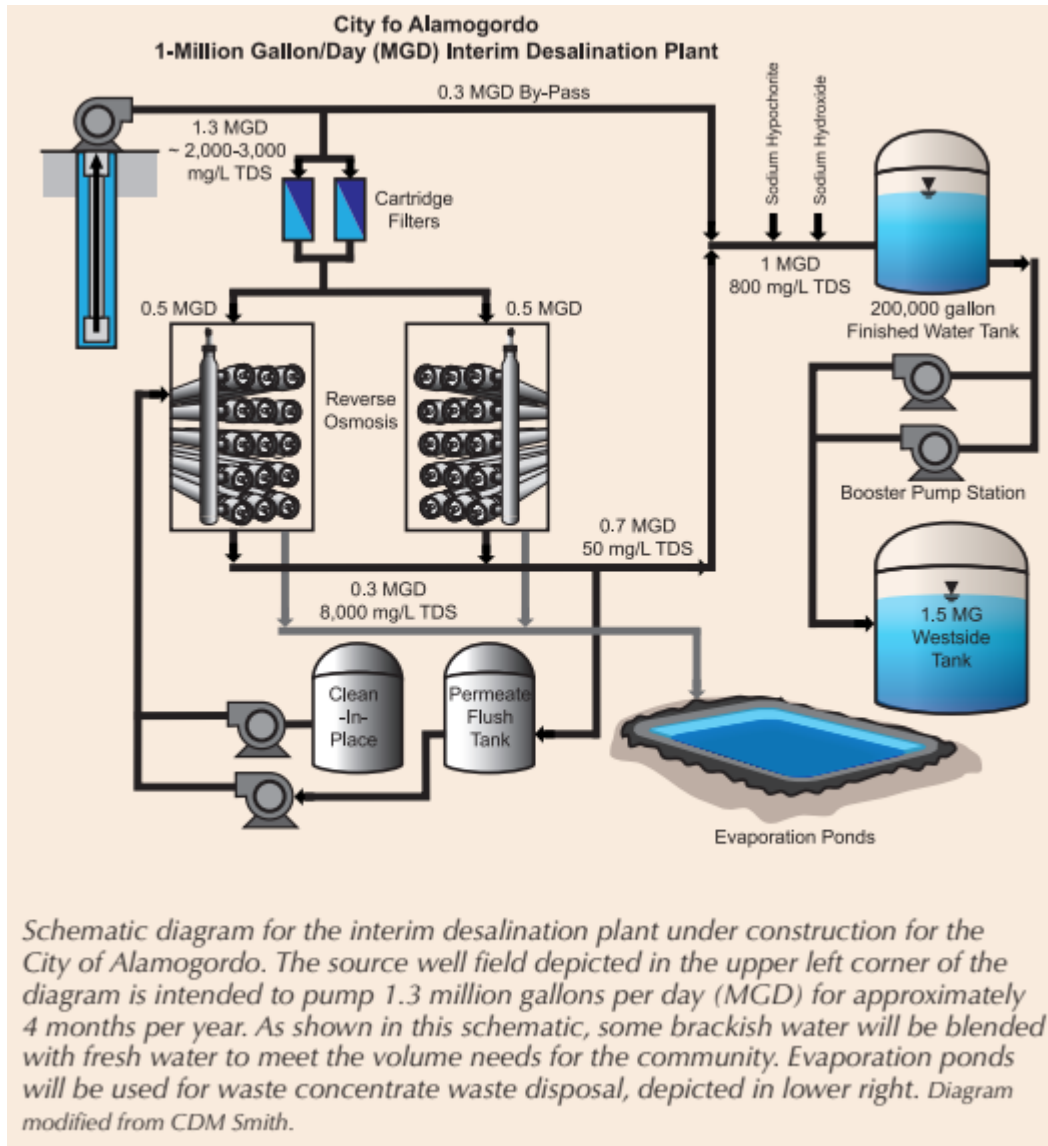
NMED notes Section 2, A, 2, of the bill defines brackish water as containing less than 1,000 mg/l total dissolved solids (TDS). Current state Water Quality Control Commission statute states water less than 10,000 mg/L TDS is protectable water, falling under the jurisdiction of NMED. OSE apportions the water resource for water less than 10,000 mg/L but excludes water greater than 2,500 feet below the ground surface. NMED recommends Section 2, A, 2 be modified to say 10,000 mg/L, not 1,000.

Attachment 1

Desalination plant graphic

AD/LG/IT/hj/hg/sgs/rl/hg/sgs/SL2

Attachment 1



Schematic diagram for the interim desalination plant under construction for the City of Alamogordo. The source well field depicted in the upper left corner of the diagram is intended to pump 1.3 million gallons per day (MGD) for approximately 4 months per year. As shown in this schematic, some brackish water will be blended with fresh water to meet the volume needs for the community. Evaporation ponds will be used for waste concentrate waste disposal, depicted in lower right. Diagram modified from CDM Smith.

Source: [New Mexico](#) Bureau of Geology and Mineral Resources Earth Matters