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| <b>LFC Requester:</b> | <b>Helen Gaussoin</b> |
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**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** 1-17-24  
**Bill No:** HB30

**Sponsor:** Reps. Sariñana & Lujan  
**Short Title:** NO USE OF FRESH WATER IN CERTAIN OIL AND GAS OPERATIONS

**Agency Name and Code**    State Land Office - 539  
**Number:** \_\_\_\_\_  
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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             |                           |               |
| No Fiscal Impact  | No Fiscal Impact | No Fiscal Impact |                           |               |
|                   |                  |                  |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

|              | <b>FY24</b>         | <b>FY25</b>         | <b>FY26</b>         | <b>3 Year<br/>Total Cost</b> | <b>Recurring or<br/>Nonrecurring</b> | <b>Fund<br/>Affected</b> |
|--------------|---------------------|---------------------|---------------------|------------------------------|--------------------------------------|--------------------------|
| <b>Total</b> | No Fiscal<br>Impact | No Fiscal<br>Impact | No Fiscal<br>Impact |                              |                                      |                          |

(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:

HB30 amends the Oil and Gas Act to prohibit the use of fresh water for oil and gas well drilling at depths lower than fresh water zones. It adds definitions for the terms “fresh water,” “recycled produced water,” “treated produced water,” and “water pollution” to the Oil and Gas Act. Fresh water is defined as water and underground waters containing less than 10,000 mg/l of total dissolved solids (TDS); water in lakes and playas unless the water exceeds 10,000 mg/l TDS and degradation of that water body will not affect hydrologically connected fresh ground water; and all surface waters in streams regardless of water quality. Operators that drill, develop, or recompleate a well must submit to the Oil Conservation Division an annual report that provides information on the types, volumes, and origins of all types of water used in the operation; depth of drilling and fresh water zone in the area of drilling; and the sources, volumes, and origins of each type of water used for drilling.

**FISCAL IMPLICATIONS**

The State Land Office does not anticipate noticeable impacts on revenue from HB30. In late 2020, the Commissioner Stephanie Garcia Richard prohibited sales of freshwater to the oil and gas industry. Since that time, the use of fresh water in oil and gas operations has declined dramatically across the industry while oil and gas revenue to the State Land Office has increased significantly, from approximately \$1.2 billion in FY21 to over \$2.7 billion in FY23. Similarly, revenue from the NMSLO Water Bureau, which handles oil and gas water easements, has gone from \$15 million in FY21 to \$18.7 million in FY23 despite the cessation of freshwater sales to the oil and gas industry.

**SIGNIFICANT ISSUES**

The State Land Office supports efforts to restrict and reduce the use of freshwater for oil and gas activities. HB30 would reduce the volume of fresh water use in the oil and gas industry and help to extend declining fresh water supplies. Defining fresh water as having less than 10,000 mg/l TDS would also encompass brackish water that is not potable without treatment, but that could be economical to treat for domestic or agricultural use. Implementing HB30 would require new water recycling and treatment facilities and distribution systems, and potentially an increase in capacity to regulate and manage waste products from water treatment.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

Although a new definition is added for “water pollution,” the term does not seem to appear in the Oil and Gas Act. The definitions for “recycled produced water” and “treated produced water” should be expanded and clarified to distinguish between the two types of water.

The Capitan Reef, an area of development in southeast New Mexico, has areas where fresh water, as defined in the bill, may be found at depths below “fresh water zones” and where communication occurs throughout the reef. Due to this communication, pumping water from areas of the reef that have TDS above 10,000 could degrade deep fresh water deposits. Thus, even if the TDS levels exceeds 10,000 in parts of the reef, the entire Capitan Reef and areas with similar characteristics should likely be included/carved out as an exception, similar to how the bill treats playas and lakes.

The definition of “fresh water” includes “(2) water in lakes and playas, regardless of quality, unless the water exceeds ten thousand milligrams per liter of total dissolved solids and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water:...” This definition would seem to allow degradation of naturally occurring saline lakes or playas, or lakes and playas that may already be degraded, if they can be shown to be unconnected hydrologically to fresh ground water. Also, proving hydrologic connectivity often requires multi-year isotopic studies and ground water monitoring. furthermore, if such lake or playa water is excluded from the definition of fresh water, the new definition does not explain what this water is, or how it may be used. Note that “surface waters” are included in the definition of fresh water regardless of connectivity or water quality.

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**

Section F.1 should be amended as follows:

(1) water and underground waters containing less than ten thousand milligrams per liter of total dissolved solids, or, if equal to or higher than ten thousand milligrams per liter of total dissolved solids, it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water; and