

LFC Requester:	Carswell
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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 1/24/2024

Bill No: HB 211

Sponsor: Herrera / Ortez / Cates / Castellano / Lara
Short Title: Water Prioritization Projects

Agency Name and Code NMED-667
Number: _____
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SECTION II: FISCAL IMPACT

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		No Fiscal Impact				

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:
House Bill 211 (HB211) allows the Water Trust Board (WTB) to authorize water projects for wastewater conveyance and treatment, and provides that NMFA would set requirements for the financial capability of qualifying entities and determine costs of originating grants and loans. HB211 removes fiscal agent fees from items that are eligible for grants and loans, reduces the amount of water project funds distributed to the State Engineer, allows NMFA to fund water projects without receiving legislative approval for the next five years, provides that money in the Water Project Fund may be used to hire contractors to provide technical assistance, and changes the date that the WTB is required to report to the legislature.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

WTB administers the Water Project Fund and disperses funding for community water and other eligible projects through a competitive application process. HB211 places a duty on the WTB to adopt rules governing the terms and conditions of grants or loans under WTB funding by giving priority to projects that have been identified by WTB as being urgent to address public health and safety issues, rather than projects that meet the needs of a regional water planning area that has completed a regional water plan that had been accepted by the interstate commission. Removing the requirement of an interstate commission-approved regional water plan should speed up the process of awarding loans. However, it may be necessary to promulgate rules that address the new requirement for approval of projects based on public health and safety concerns.

HB211 removes multiple WTB authorities and places those authorities with NMFA. Some of those authorities moved from the WTB to the NMFA include requirements for financial capability to ensure sufficient revenues to operate and maintain a water project for its useful life and to repay the loan and agreements to pay costs of originating grants and loans.

Under HB211 WTB funding will no longer be available for implementation of federal Endangered Species Act of 1973 collaborative programs. Instead, HB211 adds wastewater conveyance and treatment projects as eligible for WTB funding. This may compete directly with the Clean Water State Revolving Loan Fund (CWSRF) at NMED. The CWSRF program struggles to allocate all of its available funding due to competition from other funding sources in New Mexico, Capital Outlay funding is the most extensive competition to the CWSRF program because it is 100% grant and the CWSRF is a loan program. Loans are not popular funding sources when there is free money available. The WTB funding is majority grant funding with smaller percentages of loan for most funding recipients. The addition of more eligibilities for WTB funding may enable WTB funding to be combined with the CWSRF funds, but the timeframe for the WTB program would make it difficult to co-fund projects in a timely manner and this competition could impact the use of CWSRF funds in the state. CWSRF accepts applications year-round and can make awards at any time. WTB is a once-a-year process that takes approximately 10 months from application to award. This process may speed up if the bill passes and the legislative approval process is eliminated.

HB211 does away with the drought strike team that was created in 2003 whose function was to coordinate responses to emergency water shortages due to drought conditions. Emergency water shortages will no longer be a specified condition that would be eligible for WTB funding.

Further, HB211 removes the requirement that a water conservation plan be provided when applying for funding.

PERFORMANCE IMPLICATIONS

The additional competition from the WTB to the CWSRF program may further slow down the timely and expeditious distribution of funds from the CWSRF and bring more scrutiny from the Environmental Protection Agency.

Careful coordination between agencies may result in more rapid availability of funding to communities in need and the ability to leverage multiple funding sources to complete projects.

ADMINISTRATIVE IMPLICATIONS

NMFA, NMED, and OSE will need to coordinate closely on projects to ensure compliance with all regulatory requirements.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

20.7.10 NMAC (NM Drinking Water Regulations), Chapter 74 of the Environmental Improvement Act,

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The current processes for funding water projects through NMFA will remain in place.

AMENDMENTS