

LFC Requester:

Graeser

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

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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 1/31/2024

Bill No: HB 291

Sponsor: Gurrola, Cates, Herrera, Chávez

Agency Name and Code NMED-667
Number:

Short Title: ALLOW WATER REUSE REQUIREMENTS

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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		\$349.5	\$349.5	\$699.0	Recurring	NMED Operating Budget

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 291 Allows counties and municipalities to require water harvesting, recycling and reuse, and creates the water harvesting income tax credit and standards for the design, construction, installation and inspection of rainwater and storm water catchment systems. Requires permitting and provides matching funds for rainwater and stormwater catchment systems in public buildings and facilities. Requires the Office of State Engineer to promulgate rules and Regulation and Licensing Department to develop tax credits, standards for design, construction, installation and inspection of the systems. The bill, in Section 4, requires the New Mexico Environment Department (NMED) to set up a process to review applications and award matching funds for catchment systems at public buildings for rainwater, storm water, or untreated water that has not been in contact with toilet waste.

FISCAL IMPLICATIONS

Section 4 requires NMED to set up a process to review applications and award matching funds for catchment systems at public buildings. However, the bill does not provide or identify a funding source for such matching funds. The bill also does not provide any funding for administrative support for such a process, which would require 3 new FTE at an estimated cost of \$349.5 thousand, including salaries, benefits, and other costs.

SIGNIFICANT ISSUES

HB 291 calls the Office of State Engineer to develop regulations in conjunction with Construction Industries Division to facilitate a water harvesting program for residential and commercial applications including rainwater, stormwater runoff, and other wastewater sources not in contact with sewage. It allows for use of the harvested water for both potable and non-potable uses. HB 291 does not address the need for filtration and disinfection of harvested water to make it safe for potable uses. Harvested water and stormwater runoff carry significant risks of contaminants.

PERFORMANCE IMPLICATIONS

HB291, like any unfunded mandate, risks reducing NMED's service levels by increasing demands on the Department and its workforce without providing additional resources.

ADMINISTRATIVE IMPLICATIONS

HB 291 does not address water quality issues and does not require the involvement of NMED to determine the adequacy of designs regarding disinfection and other treatment requirements if the water is to be used as a potable public water source.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 291 may conflict with the Groundwater and Surface Water protection regulations (20.6.2 NMAC) regarding reuse and with Liquid Waste Regulations, in addition to Safe Drinking Water regulations.

NMED has communicated with the Regulation and Licensing Department (RLD) and shares RLD's concerns regarding new requirements that HB291 would put in place, the interaction with existing laws and rules regarding the construction industry, and how the bill's requirements would impact the authority and responsibilities of the Construction Industries Commission and RLD's Construction Industries Division.

TECHNICAL ISSUES

Neither the Office of the State Engineer nor the Construction Industries Division have the technical staff and expertise to address the water quality issues associated with the use of harvested water for potable use.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Rainwater or storm water catchment systems will not be eligible for tax credits or state administered grant funding.

AMENDMENTS

NMED recommends that HB291 clarify that rainwater, storm water or untreated wastewater is considered “gray water” and that water that has come into contact with toilet waste is considered “black water.” Additionally, the bill should be clear that water may only be used as a potable or non-potable water source after it has been properly treated for a certain type of use.

On page 5, in subsection M:

M. As used in this section, "rainwater or storm water catchment system" means a system that is designed provide for the collection of rainwater, storm water or untreated wastewater (gray water) that has not come into contact with toilet waste (black water) for use as a potable or non-potable water source after treatment to meet water quality standards for a proposed use."