

**LFC Requester:**

**Gaussoin**

**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:** SB 187

**Sponsor:** Linda Lopez  
**Short Title:** Local Air Quality Control Authority

**Agency Name and Code** NMED-667  
**Number:** \_\_\_\_\_  
**Person Writing** Michelle Miano  
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**SECTION II: FISCAL IMPACT**

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		\$5,100.0	\$5,100.0	\$10,200.0	Recurring	NMED Permit Fee Funds

(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:

Senate Bill 187 (SB187) proposes to delete the definitions of “local agency,” “local authority,” and “local board” and proposes to delete those terms from the entire Air Quality Control Act (AQCA).

The repeal language of the New Mexico Air Quality Control Act (AQCA) that allows local authorities to administer the requirements of the AQCA within their own political jurisdictions. SB187 proposes to strike all language in the AQCA that refers to local authorities, local agencies, and local boards. If enacted, SB187 would require the New Mexico Environment

Department (NMED) to implement and enforce all requirements of the AQCA and the federal Clean Air Act within Bernalillo County and the City of Albuquerque as of July 1, 2024.

### **FISCAL IMPLICATIONS**

If enacted, NMED would require an additional 40 full time equivalent (FTE) to effectively transition and implement the Bernalillo County and City of Albuquerque local air quality programs to NMED jurisdiction. This is approximately the same number of FTE currently implementing those programs. Including salaries and benefits, NMED estimates \$4.8 million in recurring staffing costs associated with SB187. Additionally, the Department would require leased office space estimated at \$150 thousand annually to accommodate the new staff and other annual operational costs, such as utilities, supplies and equipment, and travel expenses, of about \$150 thousand. In the long run, permit fee revenues would fund most of these costs.

These staff would be necessary to evaluate the local programs and ensure their integration into NMED's Air Quality Bureau. NMED may have to appear before the EIB to approve new regulations, and would then be required to update its State Implementation Plan (SIP), which is required under federal law. Once approved by the EIB, the SIP must be submitted to the U.S. Environmental Protection Agency for approval under the Clean Air Act (CAA).

### **SIGNIFICANT ISSUES**

If enacted, SB187 would require NMED to hire and house 80 FTE to implement the current rules in effect for regulated entities currently managed by Bernalillo County and the City of Albuquerque. Currently, NMED is not budgeted for 80 new FTE nor does NMED have available leased space to accommodate such an increase in employees without leasing new office space. NMED is unclear if the funds collected by Bernalillo County and the City of Albuquerque would be transfer to NMED's air quality permit funds for the implementing SB187. If not, the New Mexico legislature would need to appropriate the necessary funding to avoid loss of federal funds to the State of New Mexico.

### **PERFORMANCE IMPLICATIONS**

NMED is responsible for administering and enforcing regulations promulgated by the EIB to improve air quality throughout New Mexico, as described in NMED's "Performance Measure 4.2: Percent of days with good or moderate air quality index." Better air quality improves the health of all New Mexicans, and especially those who are most vulnerable including children, the elderly, and those with respiratory system diseases such as asthma and bronchitis. This would be a significant transition. If properly resourced per the above explanation, NMED could meet the standards as required by the AQCA and CAA.

### **ADMINISTRATIVE IMPLICATIONS**

There may be a need to update current air regulations, which will need to be promulgated by NMED and approved by the EIB. Any revision to a regulation would require a full administrative hearing subject to appeal to the Court of Appeals. NMED may also need to revise a SIP and submit to the EPA for approval. This timeline could take up to three years

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

None identified

### **TECHNICAL ISSUES**

None identified

### **OTHER SUBSTANTIVE ISSUES**

None identified

### **ALTERNATIVES**

None identified

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

Status quo

NMED would continue implementing the federally-approved SIP within its jurisdiction; Bernalillo County/City of Albuquerque would continue implementing their federally-approved SIP; and the AQCA would continue to allow local authorities to adopt their own air program within their own jurisdiction, provided it met the state and federal requirements.

### **AMENDMENTS**

None identified