

LFC Requester:	Helen Gaussoin
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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 X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 1-25-24
Bill No: SB 198

Sponsor: The Honorable Steven
McCutcheon II and Pat
Woods

**Agency Name and
Code Number:** 305 – New Mexico
Department of Justice

**Short
Title:** Game Commission Land
& Water Acquisitions

**Person Writing
Analysis:** AAG Daniel Rubin
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SECTION II: FISCAL IMPACT n/a

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Senate Bill (“SB”) 198 would amend several laws governing the State Game Commission’s discretionary acquisition of real property or aquatic habitat, specifically, sections 17-1-14 (Section 1 of the bill), 17-4-1 (Section 3 of the bill), and 17-2-44 (Section 2 of the bill). It would provide acequia associations, land grants, and county commissioners in which the property is located an effective veto power over any such acquisition by the Game Commission. It would further require legislative approval for such acquisitions and would require the Game Commission to first compile an impact report. It would also require the Game Commission to compile an annual report to the legislature on subsequent impact of all past acquisitions, arguably even those predating the bill.

FISCAL IMPLICATIONS

None noted.

SIGNIFICANT ISSUES

The Game Commission holds condemnation authority pursuant to Section 17-4-2. To ensure consistency and to avoid creating incentive for the Commission to pursue eminent domain instead of the voluntary transactions described in Section 17-4-1 to avoid additional approvals, Section 17-4-2 would need to have similar amendments as provided in this bill.

The Game Commission holds “game and fish habitat acquisition” authority pursuant to Section 17-1-22.1 NMSA 1978, and is authorized to exercise this authority using funds in the game and fish capital outlay fund. To ensure consistency and avoid ambiguity, that section should be amended to reference the requirements of this bill, as Section 2 of the bill does for Section 17-2-44 NMSA 1978.

PERFORMANCE IMPLICATIONS

This bill may reduce the extent to which the Game Commission acquires real property and aquatic habitat by imposing significant new requirements on such acquisitions.

ADMINISTRATIVE IMPLICATIONS

This bill would increase the administrative costs associated with the Game Commission's future acquisition of real property for land habitat and aquatic habitat.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

Page 8, lines 14-17: the proposed new section B(1) of 17-4-1 would arguably require approvals by three separate public bodies - a land grant, an acequia, and a county's commissioners - for each acquisition. It would in many cases require at least two approvals, as county commissioner approval would be required in every instance. To the extent that the bill intends for only one approval by the most immediate public body, it should be amended accordingly.

Page 8-9, lines 24-5: It is not clear whether the annual report contemplated by this bill would include an assessment of impacts by all acquisitions by the Game Commission that predate the bill.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

None noted.