

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Brown **ORIGINAL DATE** 1/23/17 **29/aHLELC/**
LAST UPDATED 2/15/17 **HB** aHEENRC
SHORT TITLE Carlsbad Brine Well Authority & Fund **SB** _____
ANALYST Armstrong

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal		Recurring	Attorney General, EMNRD, NMED, and NMDOT operating budgets

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB30, SB3, SB4

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of HENRC Amendment

The House Energy and Natural Resources Committee amendment adds the state engineer, or designee, as an eighth member of the Authority, clarifies that the Authority shall “recommend” rather than “set” policy for OCD regarding remediation of the Carlsbad brine well, states that EMNRD shall administer the fund, and adds a provision requiring approval from the secretaries of EMNRD and the Department of Finance and Administration for disbursements from the fund.

Synopsis of HLELC Amendment

The House Local Government, Elections, Land Grants and Cultural Affairs Committee amendment adds language to expressly provide that the bill is not a waiver or alteration of immunity from liability provided by the Tort Claims Act or other law.

Synopsis of Bill

House Bill 29 (HB29) creates the Carlsbad brine well remediation advisory authority (“Authority”) with a board of directors that includes the mayor of Carlsbad (who serves as the chair), the chair of the Eddy County Commission, the secretary of the Energy, Minerals and Natural Resources Department (EMNRD), the secretary of the Department of Environment (NMED), the secretary of the New Mexico Department of Transportation (NMDOT), the manager of the Carlsbad Irrigation District, and the New Mexico attorney general. The bill includes a sunset date of July 1, 2030, for the authority, and creates the Carlsbad brine well remediation fund to be used by EMNRD to remediate the brine well.

The Authority is tasked with setting policy for and advising EMNRD’s Oil Conservation Division (OCD) on remediation of the Carlsbad brine well, including a revenue source dedicated the remediation fund.

FISCAL IMPLICATIONS

The Attorney General’s Office, EMNRD, NMED, and NMDOT would incur minimal additional costs, assuming the attorney general and agency secretaries would be eligible to receive per diem and mileage for serving on the Authority.

SIGNIFICANT ISSUES

A “brine well” is a solution mining operation where fresh water is injected through a well casing and salt water or brine is extracted. Beginning in 1982, EMNRD’s Oil Conservation Division (OCD) permitted 32 brine well operations associated with oil and gas development, all in Eddy and Lea counties. Brine wells result in underground caverns as salt is extracted, with the stability of the resultant caverns depending on their depth, width, and the strength of the materials above the void. New Mexico saw two sudden and catastrophic brine cavern collapses within a four month period in 2008, prompting OCD to form a working group to examine the causes and provide a report, including recommendations for a safe path forward.

After the 2008 collapses, OCD identified the Carlsbad well as having similar features placing it at risk, including depth to the salt formation and the amount of salt extracted. The cavern at this site is approximately 350 feet wide by 700 feet long. The top of the cavern is, on average, about 450 feet below the ground surface and its bottom extends to a depth of about 600 feet. Analysis of the cavern shows the area impacted by a collapse would be much larger, one-thousand feet wide by 1.7 thousand feet long, and would affect a mobile home park, a place of worship, a feed store, two highways (US 285 and US 180/62), a BNSF Railways facility, and Carlsbad Irrigation District’s Southern Main canal. Both potentially impacted highways are designated Waste Isolation Pilot Plant (WIPP) transportation routes. A collapse could also adversely impact groundwater and surface habitat.

When the business operation that was responsible for the cavern entered bankruptcy, OCD and Carlsbad designed and implemented a monitoring system and completed a feasibility study of potential remedies. The automated monitoring system is operational and integrated into the local emergency response infrastructure.

According to the authors of the 2014 feasibility study, statistical evaluations of probability of failure and cavern lifespan indicate a high probability of catastrophic failure within 10 to 25 years. However, EMNRD’s bill analysis states that more recent information indicates a collapse will likely occur no later than five years from now. OCD has spent over \$5 million monitoring the brine well to date.

A limited number of options were determined to be potentially feasible including continued monitoring with institutional controls, controlled collapse, and in-place (or “in situ”) backfilling of the underground cavern. Carlsbad and other stakeholders have tentatively agreed the backfilling option is most desirable along with being the least expensive option to deliver a permanent remedy. Still, the estimated cost for such an operation could approach \$25 million and the source of this funding is unclear although some have suggested the Authority should have the power to issue and sell bonds backed by Oil Reclamation Fund or severance tax revenues. The Oil Reclamation Fund is dedicated to OCD’s ongoing efforts to reclaim abandoned oil and gas wells and severance tax bonding supports capital outlay.

RELATIONSHIP

As introduced, HB 29 duplicated Senate Bill 4; however, amendments have resulted in differences in the bills. House Bill 30 and Senate Bill 3 each appropriate \$500 thousand from the general fund to OCD to develop a design-build request for proposals to remediate the brine well.

ALTERNATIVES

Entities represented on the Authority could continue to meet independently to work with and advise OCD on remediation of the Carlsbad brine well.

JA/al/jle