

House Bill 175/HAWCS/aHJC

Synopsis of Original Bill

House Bill 175 proposes to enact the Regional Water Utility Authority Act that allows for the creation of regional water utility authorities (RWUAs) to plan, develop, manage, maintain, or coordinate regional water and wastewater facilities; purchase, acquire, establish, or construct waterworks to supply water and wastewater systems; and develop renewable energy projects.

RWUAs would be political subdivisions of the state, incorporated, and governed by a board of directors elected from a RWUA's service area. RWUAs would, among other powers, have the power to borrow money, encumber revenues, establish rates for services, authorize liens, acquire water rights, condemn property for infrastructure, and compel connection within a service area.

RWUAs would have exclusive rights to provide services within a service area, subject to the right of existing providers to continue services, and to planned and funded extensions of existing services, provided those are completed within 18 months of an RWUA's incorporation date.

RWUAs would be authorized to regulate and restrict the drilling of domestic wells and compel connection within a service area to RWUA systems. An RWUA would be subject to NMED, OSE, and DFA rules, but not subject to Public Regulation Commission (PRC) jurisdiction unless it chooses to be. Finally, the bill adds RWUAs to the list of entities state statute allows to implement a water development plan for a period of up to 40 years.

FISCAL IMPLICATIONS

The substitute bill would provide a mechanism for small water or wastewater providers to combine their resources which could promote greater efficiency in maintaining infrastructure, keep costs low for consumers, and ensure consistent compliance with regulatory requirements.

SIGNIFICANT ISSUES

NMED has concerns over the removal of the requirement for an RWUA to meet a minimum number of connections/populations served to align with the Environmental Protection Agency's (EPA) definition of a public water system. This could result in a RWUA not being subject to the Safe Drinking Water Act and New Mexico drinking water regulations if thresholds are not met. Furthermore, RWUAs must prove that they have managerial, financial and technical (FMT) capacity to operate but it is not clear who is responsible for determining those capacity requirements. According to NMED, Drinking Water Bureau (DWB) regulations require new public water systems to demonstrate FMT capacity. However, this only applies to systems that meet the definition of a public water system. Since the substitute bill does not appear to align with the EPA's definition of a public water system, it is unclear what role the DWB would have in FMT capacity determinations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with Senate Bill 509.

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WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Water and wastewater utilities that desire to merge regionally would continue to do so without benefit of a statutory procedure, which could discourage collaboration and regionalization.

AHO/sb/al