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FISCAL IMPACT REPORT

SPONSOR <u>Muñoz</u>	LAST UPDATED <u>03/11/2023</u>
	ORIGINAL DATE <u>02/27/2023</u>
SHORT TITLE <u>Brackish Water Reuse</u>	BILL NUMBER <u>Senate Bill 493/aSCONC/aSFC</u>
	ANALYST <u>Sanchez</u>

APPROPRIATION* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
No fiscal impact	\$60,500.0	Nonrecurring; for expenditure in FY24 to FY28	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	\$500.0	\$500.0	\$1,000.0	Recurring	Department of Environment
	No fiscal impact	\$600.0	\$600.0	\$1,200.0	Recurring	Office of the State Engineer
	No fiscal impact	\$245.0	\$245.0	\$490.0	Recurring	New Mexico Institute of Mining and Technology
	No fiscal impact	\$245.0	\$245.0	\$490.0	Recurring	New Mexico State University
Total	No fiscal impact	\$1,590.0	\$1,590.0	\$3,180.0	Recurring	

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Office of the State Engineer (OSE)
Department of Environment (NMED)
New Mexico State University (NMSU)

No Response Received

New Mexico Institute of Mining and Technology (NMIMT)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 493 strikes language requiring the Department of Environment to promulgate rules establishing “appropriate mineral levels in water projects” in water projects and instead inserts language requiring NMED to promulgate rules for “use of naturally occurring brackish water” in water projects. The SFC amendments also change the date by which the Department of Environment shall be required to promulgate rules for the appropriate mineral levels for water in the water projects specified in Sections 2 and 3 of the bill from December 31, 2024, to December 31, 2026.

Synopsis of SCONC Amendment

The Senate Conservation Committee Amendment to Senate Bill 493 changes the date by which the Department of Environment shall be required to promulgate rules for the appropriate mineral levels for water in the water projects specified in Sections 2 and 3 of the bill from December 31, 2023, to December 31, 2024.

Synopsis of Senate Bill 493

Senate Bill 493 would require the Department of Environment to promulgate rules for the appropriate mineral levels for brackish water treated and intended for use in aquifer recharge projects in the lower Rio Grande, middle Rio Grande, Permian basin, and northwest quadrant of New Mexico.

Senate Bill 493 appropriates \$50 million from the general fund to the Office of the State Engineer for the purpose of planning, design, administration, and matching federal and private funds for brackish water reuse, exploration, treatment, and aquifer recharge water projects to benefit the lower Rio Grande, middle Rio Grande, Permian basin and northwest quadrant of the state.

Senate Bill 493 appropriates \$2.5 million from the general fund to the Board of Regents of the New Mexico Institute of Mining and Technology for the purpose of funding innovation, research, monitoring, support, and development of technology associated with water projects listed above at the Office of the State Engineer.

Senate Bill 493 appropriates \$2.5 million from the general fund to the Board of Regents of New Mexico State University for the purpose of funding innovation, research, monitoring, support, and development of technology associated with water projects listed above at the Office of the State Engineer.

Senate Bill 493 appropriates \$5.5 million from the general fund to the Department of Environment for the purpose of funding the promulgation of rules for the appropriate level of mineral levels for water used in the water projects listed above at the Office of the State Engineer.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023 (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The appropriations of \$60.5 million contained in this bill are a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY28 shall revert to the general fund. Although this bill does not specify future appropriations, multiyear appropriations, particularly if used to fund services, create an expectation the program will continue in future fiscal years; therefore, this cost could become recurring after the funding period.

Each of the agencies responding to the request for analysis indicated that they were satisfied with their ability to use the appropriation contained in the bill to fund the term positions needed to fulfill the duties outlined. However, only the Department of Environment's analysis estimated the operating budget impact that would likely result from the passage of the bill. For the Office of the State Engineer, the analysis estimates an annual recurring cost of \$600 thousand for up to three full-time employees (FTE) including one engineer and two water resource professionals, with an average salary of \$200 thousand. For both New Mexico State University and New Mexico Institute of Mining and Technology, the analysis estimates an annual recurring cost of \$245 thousand for four FTE including a water data specialist and three hydrologists.

SIGNIFICANT ISSUES

The analysis provided by the Office of the State Engineer stated that Senate Bill 493 would significantly aid the agency's efforts to develop brackish water treatment and desalination. The agency is currently involved in two projects including applying for a Water Smart Desalination research and planning initiative and negotiating a cooperative agreement with the United States Bureau of Reclamation on desalination projects in the lower Rio Grande. The agency's analysis stated:

This bill will provide substantial support for these and other future projects. First, it will provide financial support for the engineering planning of the infrastructure necessary in for desalination facility and secondly, it demonstrates to our federal partners the commitment the State of New Mexico has in advancing desalination projects.

The analysis provided by the Department of Environment (NMED) raised concerns regarding the timeline laid out in the bill for the promulgation of rules relating to brackish water reuse. Stating that:

A deadline of December 31, 2023, is not sufficient to fully develop, receive public input, prepare for rulemaking in front of the Water Quality Control Commission and implement a complex rule package like reuse. Typically, the rulemaking process takes 10 to 12 months once the draft is developed and ready for presentation and public comment required by the existing regulations.

NMED expressed confidence that if some of its other special appropriation requests for operational improvements are funded, it could likely complete the rulemaking process within 18 months.

PERFORMANCE IMPLICATIONS

The analysis provided by New Mexico State University expressed confidence that it could fulfill the duties and obligations laid out in the bill, stating:

NMSU is well positioned to support SB493 with extensive expertise in water research,

innovative technology development and deployment, and the ability to align technologies with fit-for-purpose application and use. As an academic partner in the National Alliance for Water Innovation (NAWI), supported by the U.S. Department of Energy and headquartered at Lawrence Berkeley National Laboratory, NMSU has active research collaborations with the national laboratory system, and other leading academic institutions across the country in advanced water research. Through engagement in NAWI, NMSU is able to leverage contributions made to the development of a national Master Roadmap on water technology that begins to identify high priority research needs for innovative and emerging water treatment and reuse technologies, as well as existing uses of desalination and advanced water technologies.

ALTERNATIVES

The Office of the State Engineer suggested adjusting the language in Section 2:

To make clear that brackish water treatment in the first instance – prior to any “reuse” – falls within the language of the bill. Reordering the language to say that the bill is for “brackish water exploration, treatment, reuse and aquifer recharge projects” would more clearly capture all of the purposes of the bill.

The Department of Environment suggested three amendments, including:

- Renaming the legislation “Alternative Water Source Reuse”.
- Section 1:
 - “The department of environment shall by December 31, 2023 petition the water quality control commission to promulgate rules for the appropriate mineral levels for water in the water projects specified in Sections 2 and 3 of this act. The WQCC shall promulgate such rules by December 31, 2024.”
- In Section 5, on page 3, line 7-8:
 - “the promulgation of rules pursuant to Section 1 of this act and to conduct activities to advance water reuse, including water treatment and desalination, direct and indirect potable reuse, reclaimed wastewater, and treated produced water.”

SS/al/ne/hg