

LFC Requester:

Austin Davidson

## AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: 2/14/25

Check all that apply:

Bill Number: HB 311

Original  Correction   
Amendment  Substitute

Sponsor: Rep. Nathan Small

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

Person Writing

Short Title: Reclaimed Water Act

Analysis: Julie Meade

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### SECTION II: FISCAL IMPACT

#### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

#### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(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**

The Reclaimed Water Act provides for the creation of a Reclaimed Water Authorities to oversee the use, sale and certification of reclaimed water.

The Committee Substitute for HB 311 made the following changes to the original bill:

Section 2 (C).

- Changes the definition of “Certified reclaimed water” to mean “reclaimed water that is certified by the water quality control commission (“WQCC”) by or the commission’s delegate for a type or source of water to indicate the water has been treated to a sufficient quality that it is no longer regulated as wastewater.”

Section 4(B). Requires the appointed professionals to have at least three years of experience in their respected fields.

Section 5. Powers and Duties.

- Paragraph A(21) of the substitute specifies that RWAs may “perform inspections of reclaimed water; inspect water quality; and assess fees for the administration costs of the authority or penalties and fines against reclaimed water producers, reclaimed water wholesalers, and retail water suppliers conducting business with a reclaimed water authority for violation of a reclaimed water authority's rules.”

Section 8. Application of Other Laws

- The substitute adds a limitation to A(1) to the applicability of state laws and rules governing water rights, specifying they apply only to “water rights issued by the office of the state engineer.”
- The substitute modifies subsection C by removing language referencing procurement, per diem and mileage exemptions for RWAs from state law. “An authority is separate and apart from the state and shall not be deemed an agency, public body or political subdivision of the state for purposes of application of law relating to personnel, procurement of goods and services, gross receipts tax, disposition or acquisition of property, capital outlays or per diem and mileage.”

Section 10: Oversight by RWAs

- The substitute eliminates subsection C of the original bill relating to the oversight authority of the WQCC.

Section 15(C) is modified to specify that upon a request to WQCC to adopt standards for certification of reclaimed water, that the standards and procedures shall ensure that certified reclaimed water is “in sufficient condition, based on the use, to protect public health and the environment sufficiently so as to no longer require oversight or regulation necessary for wastewater or produced water.”

## **FISCAL IMPLICATIONS**

N/A

## **SIGNIFICANT ISSUES**

See the analysis of original bill for significant issues regarding delegation of authority and PRC’s authority to set economic development water rates as the Committee Substitute did not change those issues.

Section 8(D) makes RWAs subject to the Inspection of Public Records Act (IPRA) except for information “obtained by the authority or its board related to pricing” which it would allow the party submitting it to mark confidential, and therefore exempt from inspection. This appears to create a new exception as IPRA currently recognizes trade secrets not pricing information per se.

## **PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

N/A

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

N/A

## **TECHNICAL ISSUES**

See the analysis of the original bill as the Committee Substitute did not address those issues.

## **OTHER SUBSTANTIVE ISSUES**

N/A

## **ALTERNATIVES**

N/A

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

Status quo.

## **AMENDMENTS**

N/A