

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: 1/31/2025

Check all that apply:

Bill Number: SB 22 Amd.

Original Correction
Amendment Substitute

Sponsor: Sen. Peter Wirth, Sen. Kristina Ortez

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

Person Writing

Short Title: WATER QUALITY & POLLUTION

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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
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

Synopsis:

The proposed amendment to the Senate Conservation Community would amend SB 22 in three ways. First, it would clarify that the WQCC’s new authority to adopt rules for the transfer and use of treated waste water is limited to treated *domestic* waste water. Specifically, proposed Subsection (S) of 74-6-4 , Duties and Powers of Commission, would be amended to read:

“S. shall adopt rules to be administered by the department to govern the transfer and use of treated domestic wastewater for potable reuse. . . “

Second, the agricultural exemptions from surface water permitting requirements provided in proposed the proposed bill would be more fully defined in the statute, rather than delegated to the WQCC or constituent agencies. Specifically, proposed Subsection T of Section 74-6-5 NMSA, Permits – Certification – Appeals to Commission, would be amended to read as follows:

- T. Exemptions Except as provided in Subsection U of this section, exemptions for surface water permits shall include:
- (1) normal farming, silviculture and ranching activities as determined by the commission or constituent agency such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber and forest products or upland soil and water conservation practices;
 - (2) construction or maintenance of farm or stock ponds, acequias or irrigation ditches or the maintenance of drainage ditches; and
 - (3) construction or maintenance of farm roads in accordance with best management practices.”; and
 - (4) a discharge composed entirely of return flows from irrigation.”

Third, a limitation on such exemptions would be added in a new subsection (U) of Section 74-6-5 NMSA, Permits – Certification – Appeals to Commission, to read:

U. The exemptions provided in Subsection T of this section shall not apply if the discharge of dredged or fill material resulting from the activities contains any toxic pollutant as set forth in rule by the commission or if a new activity brings a surface water of the state into farm

production where the area of the surface water has not previously been used for farming."

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

None found

PERFORMANCE IMPLICATIONS

None for NMDOJ

ADMINISTRATIVE IMPLICATIONS

None for NMDOJ

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relation to SB 21 (both require WQCC to adopt new standards but do not appear to conflict)

TECHNICAL ISSUES

The amendment uses the word “domestic,” which is not defined in the statute, to modify “wastewater.” This is a potential source of ambiguity, however the dictionary definition of “domestic,” combined with its usage in the water quality regulation context, probably provide sufficient clarity.

In new proposed Subsection U of Section 74-6-5 NMSA includes the clause: “if a new activity brings a surface water of the state into farm production where the area of the surface water has not previously been used for farming.” This seems somewhat ambiguous in a couple of ways. First, it is unclear whether bring surface water “into farm production” means diverting the surface water for irrigation, or planting crops in the area where the surface water is currently found – e.g., in a stream. Second and relatedly, the “area of the surface water” is vague in that it is not clear if it means the general vicinity of the surface water, or only the area actually occupied by the water.

OTHER SUBSTANTIVE ISSUES

None found

ALTERNATIVES

NA

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

NA