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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/20/15

SPONSOR McCamley LAST UPDATED \_\_\_\_\_ HB 12

SHORT TITLE Water Budget Rate Structures SB \_\_\_\_\_

ANALYST Armstrong

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

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0 – \$175.0	\$0 – \$100.0	\$0 – \$100.0	\$0 – \$375.0	Recurring	General Fund or Water Conservation Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Environment Department (NMED)

New Mexico Municipal League (NMML)

### SUMMARY

#### Synopsis of Bill

House Bill 12 (HB12) revises Section 74-1-12 NMSA 1978, to require all public water systems to adopt and maintain a “water budget rate structure” as a condition of receiving NMED support for water system financing. Additionally, HB12 requires NMED to adopt rules implementing approved water budget rate structures by June 30, 2016. Finally, HB12 amends Section 74-1-13 NMSA 1978, to limit NMED sampling and analysis to those public water systems that have a water budget rate structure approved by the agency.

### FISCAL IMPLICATIONS

According to NMED, this bill requires the agency to not only promulgate rules but also to create and maintain a program to oversee and monitor the rates and budget structure of more than 1,100 public water systems with no operating budget increase. NMED estimated the cost of such an endeavor at \$175 thousand in the first year and \$100 thousand annually thereafter, primarily driven by the need for additional staff. Assuming the Water Conservation Fund (WCF or “fund”) would support such a program, the agency expressed concern this could harm the fund’s ability

to maintain the current program that collects and analyzes drinking water samples.

Although NMED was also concerned about the impact on WCF revenues, it is unclear what impact HB12 would have on revenues because the bill does not change the statutory requirement that public water systems contribute a fee of three cents (\$.03) per thousand gallons of water produced to the fund. The balance of the WCF was \$2.8 million as of December 2014, and NMED projects the balance to remain at this level through the end of FY15. However, the agency began to spend down the fund's balance in FY15 and requested to again increase use of the fund in FY16.

## **SIGNIFICANT ISSUES**

Adoption of a water budget rate structure that meets the financial needs of a system is beneficial to individual water systems in moving away from flat fees to more informational based rates. Currently, NMED's Drinking Water Bureau provides assistance to public water systems regarding proper rate setting to meet long term development and infrastructure needs. However, this is generally done on a case by case basis and not as an implemented program.

The bill defines "water budget rate structure" as "a personalized water budget each month designed to meet customer-specific indoor and outdoor water needs, regardless of household or yard size." However, the bill only includes factors to consider when calculating residential water budgets, which include the irrigated or landscaped area of a customer's parcel, daily evapotranspiration, "plant factors," real-time localized weather data, the number of residents in each household, and an allotment of 65 gallons of water per person per day.

NMED notes that not all public water systems receiving services from the WCF have water budget rate structures, making application of HB12 unclear in some situations. Community water systems (serving at least fifteen service connections used by year-round residents or regularly serving at least twenty-five year-round residents) have water budget rate structures, but non-community systems (regularly serves at least twenty-five of the same persons over six months per year) would not fit into the proposed rate structure since it appears to be based to a great extent on the "number of residents in each home." Of the approximately 1,120 water systems in New Mexico, about 580 are community water systems and about 540 are non-community systems (e.g., restaurants, campgrounds, schools, hospitals, and factories).

Federal law requires contaminant testing by public water systems and this is one of the statutorily stated purposes of the WCF. The potential for public water systems to continue to pay into the fund and not work to comply with this bill's "water budget rate structure" requirement is uncertain. But, according to NMML, the complexity of developing such a structure may be beyond the managerial and technical capacity of small systems. NMML – noting that 64 percent of incorporated municipalities have populations less than 3,500 and operate with limited staff – was concerned that maintaining a monthly budget rate structure may be overburdensome for small systems and that the prospect of losing out on sampling and analysis provided by NMED could be costly as system managers look elsewhere for such services.

According to NMED, barring use of the WCF to collect samples and perform analyses would inhibit the agency's ability to determine compliance with state Drinking Water Regulations and the Safe Drinking Water Act. The fund is essential to the state's ability to have current, accurate, and high quality data and information about the quality of drinking water delivered by New

Mexico's public water systems. The unavailability of this data could result in serious public health issues.

**ADMINISTRATIVE IMPLICATIONS**

Although NMED stated it provides case-by-case assistance to public water systems regarding proper rate setting to meet long term development and infrastructure needs, the agency's analysis asserted that evaluating water rate structures is outside the expertise of current Water Conservation Fund program staff meaning additional staff with the associated expertise would be required to fully implement this program. Also, according to NMED, this bill's requirement to adopt new rules would increase the administrative burden for Drinking Water Bureau staff as well as NMED's Office of General Counsel.

JA/aml