FISCAL IMPACT REPORT

		LAST UPDATED	2/7/2024
SPONSOR	HCEDC	**ORIGINAL DATE**	1/31/2024
SHORT TITLE	Climate, Energy, and Water Division	**BILL NUMBER**	CS/House Bill 9/HCEDCS
		ANALYST	Rodriguez

APPROPRIATION*
(dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	$10,000.0	Nonrecurring	General Fund
	$5,000.0	Recurring	General Fund

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

Relates to House Bill 237 and HB259

Sources of Information

LFC Files

Agency Analysis
Attorney General (NMAG)
Energy, Minerals, and Natural Resources Department (EMNRD)
Environment Department (NMED)
Renewable Energy Transmission Authority

The following agencies submitted analyses for House 237, which proposes a climate, water, and energy authority and project fund.

Economic Development Department (EDD)
Public Regulation Commission (PRC)
State Land Office (SLO)
Department of Environment (NMED)

SUMMARY

Synopsis of HCEDC Substitute for House Bill 9

The House Commerce and Economic Development Committee substitute for House Bill 9 amends the Economic Development Department Act (Chapter 9, Article 15) to add a climate, water, and energy division. The division would serve as project navigators, identify site ready locations, provide recommendations for streamlining, work with pertinent entities, establish programs and grants for conversation technology pilot and demonstration projects, and develop a two-year strategic plan related to climate, water, and energy. The division will also create programs to support decarbonization, electricity generation, transportation, agriculture, and buildings. The division can enter into agreements to share employees with the Department of Environment; the Energy, Minerals, and Natural Resources Department; Office of State Engineer; and Workforce Solutions Department.

This bill directs the division to establish a decarbonization technology program to recruit and support decarbonization, energy efficiency, clean energy, energy storage, and water efficiency and resilience technology companies; coordinate and link projects to existing entities in the state; promote technology transfers, commercialization, and research; incentive decarbonization efforts; and establish a carbon concierge program to connect suppliers and related sectors to technologies that will reduce or eliminate greenhouse gas emission or water resilience.

This bill also creates a climate, energy, and water project fund. The fund is nonreverting and can be used for matching grants for climate, water, and energy technology projects and for pilot projects and studies and research concerning decarbonization, energy efficiency, clean energy, energy storage, and water efficiency and resilience technologies.

HB9 requires the proposed division to develop an application grant process that protects intellectual property and ensures transparency. The division will also develop grant criteria that may include the viability of the technology; whether it was developed, deployed, and demonstrates a long connection to the state; whether the project will benefit the state's environment, public health, economy, and workers; and whether the project has received funding from other sources.

HB9 also amends the number of divisions in the Economic Development Department from seven to six. This bill removes the technology enterprise division and the trade and Mexican affairs division and adds the climate, energy, and water division.

HB9 contains two appropriations. This bill appropriates $10 million from the general fund to the climate, water, and energy water project fund for expenditure in fiscal year 2025 and subsequent fiscal years. This bill also appropriates $5 million from the general fund to the proposed climate, energy, and water division of the economic for expenditure in fiscal year 2025.

The effective date of this bill is July 1, 2024.

FISCAL IMPLICATIONS

This bill contains two appropriations.

The first appropriation of $10 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund. This appropriation is for the creation of the climate, energy, and water project fund. Although House Bill 9 does not specify future appropriations, establishing a new grant program could create an expectation the program will continue in future fiscal years; therefore, this cost could become recurring.

The second appropriation of $5 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the general fund. This appropriation is for the proposed climate, energy, and water division of the Economic Development Department to carry out the purpose of the division.

The HAFC substitute for House Bill 2 and 3 includes a total of $6 million in recurring and nonrecurring funding for a climate, energy, and water authority and project fund contingent on the enactment of House Bill 237 or similar legislation (see *Conflict, Duplication, Companionship, Relationship*). The HAFC substitute for House Bill 2 and 3 includes $5 million recurring funding and $1 million in nonrecurring funding.

The Energy, Minerals, and Natural Resources Department (EMNRD) notes that the provision allowing the division to share staff with other agencies could result in fiscal impacts for the involved agencies, as it is unclear how shared employees would be expected to balance existing duties (see *Administrative Implications*).

SIGNIFICANT ISSUES

The proposed division will centralize the state's efforts in climate, energy, and water projects. The division will work with key agencies, stakeholders, and private industry to move projects and initiatives. According to proponents of the bill, the division will help the state meet the goals of the Energy Transition Act, create technologies and tools for decarbonization, help bring new technologies and climate technology companies to the state, and help diversify state revenues.

Energy Transition Act. In 2019, the Legislature passed the Energy Transition Act (ETA) (Chapter 62, Article 18), which among many things, increased the renewable energy requirement for all utilities and rural electric cooperative to 40 percent by 2025 and 50 percent by 2030. The act increased the renewable portfolio standards (RPS) to 80 percent by 2040 and requires 100 percent zero carbon resources by 2045. According to proponents of ETA, the act would place the state as a leader in the development of renewable energy and zero carbon policies. This bill would help centralize the state's efforts in reaching the requirements established in ETA.

Existing state functions. The Economic Development Department's Office of Strategy, Science, and Technology provides grant awards to support the development and advancement of technology transfer, commercialization, and business growth in the sectors identified in this bill. However, EDD notes that the office's resources are insufficient and cannot meet the demand. In EDD's analysis for HB237, the agency notes:

> Dedicated funding for grant programs and technology demonstration projects will enable the state to support more New Mexico startups and advance relevant technologies at a faster pace, in addition to attracting businesses from out of state, which will grow economic activity and create jobs in New Mexico.

The Public Regulation Commission (PRC) also submitted an analysis for HB237. PRC notes that the proposed entity should:

> consider coordinating with the PRC in its development and promotion of climate, energy, and water programs to ensure consistency with existing PRC regulatory processes, including those involving renewable portfolios, energy efficiency programs, the Energy Transition Act, and Grid Modernization. This may create conflicts, if for instance, the Authority [or division] promotes projects at specific locations, while the PRC has location review over electricity plants, facilities, and transmission lines.

EMNRD indicates that the proposed division could fill a need within the state. However, the agency notes that the duties and powers of the proposed division could potentially create confusing overlap with existing program, duties, and obligations at EMNRD and other agencies, specifically the Energy, Conservation, and Management Division, the state's current "energy office." EMNRD notes that successfully managing the overlaps between the proposed division and existing state programs will be essential but can be facilitated through the contemplated employee sharing. However, the agency does indicate that "over time a clearer legislative delineation may be necessary as the programs in these offices grow." EMNRD provides the following analysis of potential overlaps and suggestions to disambiguate the duties of the proposed division:

- The proposed duties of permit navigators and site location identifiers are not currently addressed by other entities and, therefore, will be helpful for companies looking to relocate.
- The proposed duty of streamlining permitting should be made in consultation with existing entities charged with implementing such programs.
- The proposed duty of engaging with international, regional, and national organizations will need to be coordinated to not disrupt existing engagement, such as New Mexico's relationship with the US Climate Alliance.
- Regarding workforce development, EMNRD notes that "there are a number of there are relationships, grants, training programs, and other structures already in place between WSD, EDD, higher education institutions, the federal departments of Labor and Energy, EMNRD, and many others."
- The proposed duty of engaging with Indian nations, tribes, and pueblos is already assigned to state's energy office and the Department of Indian Affairs.
- Regarding federal grants, EMNRD indicates that HB9 provides little guidance for reconciling conflicts between existing grant programs. EMNRD notes:

  > NMED, EMNRD and OSE administer a number of grant programs this section would affect–e.g., Solar for All ($250 million), home energy rebates (approximately $80 million dollars), grid resilience programs ($14 million so far) –all housed at the State Energy Office. This lack of clarity may impact program implementation.

- The proposed duty of establishing guidelines for programs and grants for climate, energy and water technology pilot and demonstration projects could "conflict with EMNRD's duties under the Grid Modernization Act and the Community Energy Efficiency Block Grant Act." EMNRD notes that HB9 could be narrowed to just programs relating to economic development.

Similar programs in other states. Other states operate similar entities, such as Michigan's Office of Climate and Energy created in 2019 and the Massachusetts Clean Energy Center created in 2009. According to Massachusetts Clean Energy Center's website, the quasi-public agency is funded by Massachusetts' renewable energy trust fund. The trust is funded by a charge paid by ratepayers of the investor-owned electric utilities—totaling approximately 30 cents per month for the average residential customer. Similar to the division proposed in this bill, the center funds programs for technology development, pilots for decarbonization projects, and serves as Massachusetts' center for the clean energy technology sector. The center collaborates with the state, industry, government, research universities, and the financial sector to advance the state's clean energy economy. According to the center's website, the quasi-public agency has awarded $129 million to technology innovation and company growth and awarded over $400 million through clean energy programs and investments.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB9 relates to House Bill 237. House Bill 237 enacts the climate, energy, and water authority act. The authority is administratively attached to EDD and is governed by a board of 15 members ranging from the secretaries from the Department of Environment, EMRD, EDD, NMDOT, and DFA to members with expertise in climate, energy, and water. The board will appoint an executive director to direct the business of the authority. The duties of the authority are the same as the ones identified in HB9 for the climate, energy, and water division plus the additional responsibility of maintaining records and accounts of revenue and expenditures as required by the state auditor.

Both bills also establish a decarbonization technology program. The language for the program is identical in both bills.

Both bills also create a climate, energy, and water project fund for the same purposes and are open to the same eligible entities. In HB9, vouchers are signed by the secretary of EDD and money for the fund is appropriated to DFA by the division. In HB273, vouchers are signed by the executive director of the authority and money in the fund is appropriated to the authority.

Both bills contain two appropriations from the general fund—$10 million for the project fund and $5 million for the division or the authority.

HB9 also relates to House Bill 259 that allows investment in climate technologies.

ADMINISTRATIVE IMPLICATIONS

Staff sharing would need to be clearly defined as some of the agencies outlined are regulatory, such as the Department of Environment. EMNRD also provides:

> While EMNRD is supportive of this provision [to share staff] because it will help with the area of overlap [between the proposed division and EMNRD’s energy, conservation, and management division], it is unclear in HB 9 how employee sharing would work on a budgetary or supervision basis between two different state agencies, or how shared employees would be expected to balance their existing duties with duties required by the new Division. EMNRD assumes that shared employees would be paid for in full by their originating agency and would continue to be supervised by their originating agency, and that details of time splitting would have to sort out in those underlying agreements.

TECHNICAL ISSUES

In the State Land Office’s analysis on HB237, the office notes the bill does not provide a definition on “climate, energy, and water projects” or for “project permitting navigator,” which HB9 does not provide either. SLO notes that without clearer guidance on what projects are included and what it means to be a “project permitting navigator,” there may be an unclear relationship between the division and existing regulatory and permitting agencies.

Regarding the requirement to submit a two-year plan, EMNRD notes HB9 is unclear on whether the proposed division will write a new two-year plan every year or if the division will write a two-year plan every two years and update it in subsequent years.

JR/ne/al/rl/ne