

LFC Requester:

Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)**

SECTION I: GENERAL INFORMATION

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

Date February 26, 2025 Check all that apply:
Bill Number: HB311 Original Correction
Amendment Substitute

Sponsor: HAAWC **Agency Name and Code** New Mexico Environment Department 667
Person Writing Jonas Armstrong
Short Title: Reclaimed Water Act **Phone:** (505) 670-9050 **Email:** Jonas.armstrong2@en.v.nm.gov

SECTION II: FISCAL IMPACT

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$280.0	\$280.0	\$560.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The House Agriculture, Acequias and Water Resources Committee Substitute for HB311 (HB311) authorizes a municipality or county, with permission from the New Mexico Environment Department (NMED), to create a reclaimed water authority (RWA) to promote the use of reclaimed water. "Reclaimed water" is any type of water, regardless of source and including wastewater that has been treated, that can be used once it meets state water quality standards.

FISCAL IMPLICATIONS

NMED will require two new FTE in the Water Protection Division to monitor and analyze quarterly reports from reclaimed water authorities and to serve as NMED's designee as board member for up to 10 Reclaimed Water Authorities. Each new FTE is estimated at a total cost of \$140,000 for salary and benefits per year.

SIGNIFICANT ISSUES

The committee substitute addresses many of the items raised in NMED's initial analysis. Compared to the introduced version of the bill, the committee substitute removes the word "certification" from the formal title of the Act in reference to reclaimed water. The substitute removes the definition of "certified reclaimed water" from the defined terms of the Act. It also changes the definition of department from the economic development department (in the original bill) to the environment department and adds "...for non-potable purposes..." as a qualifier to the definition of reclaimed water.

The substitute bill removes the qualifier "newly created," from the definition of a reclaimed water authority, allowing existing entities to apply to become RWAs. It also changes the board member make up to reflect the change to the definition of "department" (now NMED) to state that the environment department secretary or their designee is a non-voting member. It adds a requirement that a board provide a report identifying local reclaimed water sources and potential uses to the regional planning entity and the Interstate Stream Commission once every six months.

The committee substitute removes from the RWAs the authority to both develop and implement water quality management plans and to oversee public health and safety programs in the RWA's jurisdiction, as well the RWA's authority to issue and collect fees and assessments, to inspect reclaimed water, and assess fees against reclaimed water producers, wholesalers and retail water suppliers. It also allows the RWA to engage in regional water planning.

The committee substitute removes the provision allowing the RWA to adopt rules for the administration of the authority on a majority vote by the RWA board. The committee substitute clarifies that the RWA is subject to laws and rules governing water rights "issued by the office of the state engineer." It also removes the language that provided the RWA was not an agency for purposes of mileage and per diem.

The committee substitute changes the mandatory nature of requiring a retail water supplier to identify sources and uses of reclaimed water to a discretionary act that the retail water supplier may do. It also clarifies that retail water suppliers that are regulated by the public regulation commission are subject to the requirement that a water supplier who receives a request from a customer for an agreement to provide reclaimed water enter into an agreement to provide reclaimed water.

Finally, the substitute removes sections on (1) reporting the price of reclaimed water to an RWA or EDD, requiring the PRC to establish rates and promote the sale of reclaimed water, and (3) exempting

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

HB311 identifies the Environment Department (NMED) as the state agency to approve the formation of reclaimed wastewater authorities and NMED and the Economic Development Department are to receive quarterly reports of the authority's activities. State and federal laws administered by NMED, including the federal Clean Water Act, federal Safe Drinking Water Act, and New Mexico Water Quality Act, will apply to all or most reclaimed water authorities. NMED will continue to administer these programs in coordination with regulatory partners in adherence

to existing state and federal laws.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB137, the Strategic Water Supply Act. HB311 could lead to more opportunities for local entities to explore opportunities for alternative water sources, including brackish water, which is not excluded from the definition of “reclaimed water” in HB311. It is possible that a RWA could support brackish water treatment infrastructure and demand for the treated water, which could, in turn, connect those projects to the strategic water supply program proposed in HB137.

TECHNICAL ISSUES

On page 10, line 21, the bill refers to rules issued by NMED and EMNRD; however, the WQCC issues water quality rules that NMED and EMNRD implements, consistent with the Water Quality Act. NMED does not have rulemaking authority under the Water Quality Act.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

NMED will continue to implement existing water reuse rules and policies while pursuing further water reuse opportunities through WQCC rulemaking. Would-be sellers and purchasers of reclaimed water would continue to rely on the existing marketplace to sell and buy reclaimed water in coordination with applicable water utilities and in accordance with federal, state, and tribal water laws and regulations.

AMENDMENTS

None.