

LFC Requester: _____

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 Prepared: 1/27/2025 *Check all that apply:*
Bill Number: SB 21 Original X Correction
Amendment Substitute

Sponsor: Wirth **Agency Name and Code:** Municipal League (ML)
Short Title: Pollutant Discharge Elimination System Act **Number:** _____
Person Writing: Jacob Rowberry
Phone: 505-992-3538 **Email:** jrowberry@nmml.org

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	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Recurring	Municipalities

(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:

Senate Bill 21 requires permits issued by the New Mexico Environment Department (NMED) for discharges into waters of the United States. The Water Quality Control Commission (WQCC) is established to implement and administer the program, make determinations regarding permitting, and create a schedule of fees to pay for costs of the program. The Water Quality Management Fund receives the collected program fees.

NMED is granted powers to administer and enforce rules, including filing civil and criminal actions. SB21 provides for appeals to the WQCC and the court of appeals, and creates a private right of action and requires publicly accessible records.

FISCAL IMPLICATIONS

Under the current issuance of permits by the Environmental Protection Agency (EPA) there is no direct permit cost incurred by municipalities. The creation and implementation of a fee schedule could have significant fiscal impacts on municipalities. Preliminary permitting fees, as indicated on NMED's website, are based on funding the program at an estimated annual cost of \$7.8 million, including approximately 57 full-time employees (<https://www.env.nm.gov/surface-water-quality/wp-content/uploads/sites/18/2024/10/2024-10-25-Permit-Program-Costs-Fees-Implementation.pdf>) . Preliminary permitting fees are based on a base fee plus a flow factor (gallons), along with an application fee. One proposed fee structure indicates a median application fee of \$5,750 and an annual fee of \$23,505. For flow rates in the 10th percentile, an estimated application fee of \$2,500 and an annual fee of \$3,577. For flow rates in the 90th percentile, an estimated application fee of \$104,688 and an annual fee of \$109,125.

Further analysis of the number of municipal discharge permits currently in use, and their respective flow rates, would be needed to estimate the potential fiscal impact to municipalities as a result of imposed fees.

SIGNIFICANT ISSUES

If the NMED permitting program is solely or primarily funded through fees, this would impose new costs on municipalities, which currently do not pay permitting fees. The Municipal League is concerned that fees could be significant, especially for smaller municipalities.

Use of general fund, or other funding sources, should be considered to maintain the status quo of no incurred fees for permits.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS