

LFC Requester:

Cally Carswell

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: 1/22/2025 *Check all that apply:*
Bill Number: SB 29 Original Correction
 Amendment Substitute

Sponsor: George K. Munoz **Agency Name and Code**
Short Title: Water Project Fund Appropriation **Number:** NMFA (385)
Person Writing: Michael Vonderheide
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
(\$222,000.0)		Nonrecurring	General Fund
\$222,000.0		Nonrecurring	Water Project Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None	N/A	N/A

(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)

Relates to yet to be introduced Water Project Fund Projects bill, and House Bill 2, which transfers \$222 million from the general fund to the water project fund in fiscal year 2026 for projects authorized by the legislature in 2025 and 2026.

SECTION III: NARRATIVE

BILL SUMMARY

SB 29 appropriates \$222 million from the State's general fund to the New Mexico Finance Authority for the water project fund for expenditure in fiscal years 2025 and 2026 for water projects authorized by the legislature in the first session of the fifty-seventh legislature. Any unexpended or unencumbered balance remaining at the end of fiscal year 2026 shall not revert to the general fund.

FISCAL IMPLICATIONS

Pursuant to the Water Project Finance Act, the New Mexico Finance Authority ("NMFA") provides staff support for the Water Trust Board ("WTB") and develops application procedures and forms for qualifying entities to apply for grants and loans from the water project fund. NMFA also establishes the terms and conditions of the loans and grants awarded from the water project fund as recommended by the "WTB and authorized by the Legislature.

Assuming no direct appropriations are made from the Water Project Fund during the 2025 Regular Legislative Session, approximately \$157.798 million, net of adjudication, will be available for projects authorized by the yet to be filed Water Project Fund Projects bill. The Water Project Fund receives an annual distribution of nine percent of the severance tax bonds issued by the State Board of Finance ("SBOF"). This sum is estimated to be \$161.1 million for FY 2025 based on December 2024 SBOF estimates. Also in FY 2025, the Water Project Fund is expected to receive a \$4 million distribution from the Water Trust Fund.

Historically, the Office of the State Engineer ("OSE") receives 10% of the distributions deposited into the Water Project Fund annually for water rights adjudications, and 20% of the money dedicated to water rights adjudications is allocated to the Administrative Office of the Courts ("AOC"). House Bill 211 passed in the 2024 Regular Legislative Session, provides that from July 1, 2024, through June 30, 2029, the lesser of four million dollars (\$4,000,000) or eight percent of all water project funds shall be dedicated to the OSE for water rights adjudications and two percent of all water project funds shall be dedicated to the AOC for the costs associated with water rights adjudications. It is estimated the OSE will receive \$4 million and the AOC will receive \$3.302 million from the FY 2025 Severance Tax Bonds and FY 2025 Water Trust Fund distribution.

The NMFA administers an annual application cycle on behalf of the WTB. From July 15 to September 16, 2024, the NMFA received 102 Notices of Intent to submit an application totaling approximately \$355.2 million. On September 16, 2024, 84 applications were filed totaling \$256.4 million of requests. There is a significant gap between the Notices of Intent received and project applications filed, as actual project needs may have been pared down to meet application requirements.

On October 29, 2024, the WTB approved for recommendation to the legislature all 84 applications totaling \$256.4 million of requests. The 84 projects are included in the yet to be filed Water Project Fund Projects bill. Currently there is an approximate \$98.6 million funding gap between the \$256.4 million in WTB applications received and the \$157.798 million available to water project fund projects through severance tax bonds and the water trust fund in fiscal year 2025.

ADMINISTRATIVE IMPLICATIONS

NMFA is reimbursed for costs of administration, including paying contractors for engineering and construction oversight, from annual loan repayments. If SB 29 is enacted, the appropriation to the water project fund could potentially increase the number of WTB projects awarded for this application cycle. As a result, NMFA's costs of administration and technical oversight would likely increase due to a higher volume of awards which require project oversight, and loan servicing and monitoring.

SIGNIFICANT ISSUES

The 84 water project fund project applications submitted by qualified entities for qualified projects were fully evaluated and scored by a technical team from seven agencies. The WTB prioritized the projects based on recommendations from the technical team. It should be noted that the 84 projects appearing on the yet to be filed Water Project Fund Projects bill will be required to demonstrate compliance with relevant regulations and laws, such as water rights, state drinking water regulations, and state audit rule requirements in order to receive funding from the water project fund. Those projects with regulatory deficiencies will be by-passed by the WTB, and while the WTB typically makes awards to projects ranking in the upper half of their project type categories based on average and median scores, ultimately the total number of awards and final dollar amounts are based on available funding.

OTHER SUBSTANTIVE ISSUES

According to SB 29, the \$222 million appropriation for the water project fund is for expenditure in fiscal years 2025 and 2026 but is limited to only water projects authorized by the legislature in the first session of the fifty-seventh legislature. Currently there is an approximate \$98.6 million funding gap between the 84 projects listed in the yet to be filed Water Project Fund Projects bill representing \$256.4 million and the \$157.798 million available to water project fund projects through severance tax bonds and the water trust fund in fiscal year 2025.

The \$222 million appropriation from the general fund would close the current \$98.6 million funding gap for fiscal year 2025 water project fund projects but as written the bill does not include funding for any future projects beyond those authorized by the legislature in this legislative session. A similar funding gap is anticipated for fiscal year 2026 particularly due to wastewater conveyance and treatment coming online as an additional eligible project category in the 2026 application cycle.

TECHNICAL ISSUES

SB 29 appropriates \$222 million from the State's general fund to the New Mexico Finance Authority for the water project fund for expenditure in fiscal years 2025 and 2026 for water projects authorized by the legislature in the first session of the fifty-seventh legislature. Historically, any appropriations from the general fund to the water project fund approved by the legislature are appropriated from the general fund to the Water Project Fund and transferred by the Department of Finance and Administration and not directly to the New Mexico Finance Authority as stated in the bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without the appropriation to the water project fund in SB 29, \$157.798 million will be available

to fund water project funds through severance tax bonds and the water trust fund distribution in fiscal year 2025. \$157.798 million in awards represents roughly 62% of the \$256.4 million in applications filed and 44% of the Notices of Intent received during this cycle.