

this work.

FISCAL IMPLICATIONS

The Water Quality Control Commission (WQCC) promulgate rules under the Water Quality Act. However, NMED does develop draft rules pursuant to the WQA and petitions the WQCC for their review and action. The development of brackish water regulations will include significant NMED staff time and additional resources, including expenses prior to the rulemaking hearing and at the hearing itself. NMED will require two additional FTE staff (\$130,000 each) to conduct the drafting and outreach associated with the rulemaking process and will require an additional \$125,000 of funding in FY26 and FY27 to pay for outreach, advisory committee activities, public engagement, public notice, hearing officer, stenographer, and Spanish language interpretation. These activities are either required by state law or rule.

Given the lack of clear direction and scope in the bill, NMED is unable to estimate the fiscal impacts associated with implementing any rules promulgated pursuant to SB342.

SIGNIFICANT ISSUES

As drafted, SB342 would create a requirement for NMED to adopt rules outside of the WQCC and the Water Quality Act.

The bill does not identify what the brackish water regulations scope will include except to say the rules will be for “the use of naturally occurring brackish water for water projects specified in Section 2” of the act. The projects identified in Section 2 may be subject to the Water Quality Act and associated regulations adopted by the WQCC, for example, to regulate and permit activities with the potential to discharge to groundwater with less than 10,000 mg/L in total dissolved solids.

It is unclear what the required regulation development by NMED will address or how such regulations would relate to existing or future WQCC regulations. It could create confusion and implementation issues for NMED to promulgate brackish water use rules outside of the scope of the Water Quality Act, as a central element of the Water Quality Act is to prevent or abate water pollution in New Mexico and inappropriate use of brackish water could cause water pollution. Furthermore, the broad language around “use of brackish water” would impose significant challenges for NMED in rulemaking due to the wide range of possible uses and varying environmental and public health considerations associated with each individual potential use.

PERFORMANCE IMPLICATIONS

None identified.

ADMINISTRATIVE IMPLICATIONS

None identified.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to and conflicts with House Bill 137, the Strategic Water Supply Act insofar as both seek to establish paths toward developing brackish water resources, but with distinct approaches.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If not enacted, and if HB137 is not enacted and funded, there will be a shortfall in needed funding to advance the quantification, characterization and utilization of the state's brackish water resources.

AMENDMENTS

None identified.