

<b>LFC Requester:</b>	<b>Jonas Armstrong</b>
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

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

*Check all that apply:*

<b>Original</b>	<input checked="" type="checkbox"/>	<b>Amendment</b>	<input type="checkbox"/>	<b>Date</b>	<u>January 20, 2015</u>
<b>Correction</b>	<input type="checkbox"/>	<b>Substitute</b>	<input type="checkbox"/>	<b>Bill No:</b>	<u>HB 87</u>

<b>Sponsor:</b>	<u>Rep. Candy Spence Ezzell</u>	<b>Agency Code:</b>	<u>Attorney General's Office</u>
<b>Short</b>	<u>Water Quality Control</u>	<b>Person Writing:</b>	<u>Ari Biernoff, AAG</u>
<b>Title:</b>	<u>Commission Meetings</u>	<b>Phone:</b>	<u>827-6086</u>
		<b>Email</b>	<u>abiernoff@nmag.gov</u>

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**BILL SUMMARY**

Synopsis: House Bill 87 would amend the Water Quality Act, NMSA 1978, Section 74-6-6 which establishes procedures for hearings conducted by the Water Quality Control Commission (the “Commission”). Under the Statute, proposed regulations and water quality standards “of statewide application shall be held in Santa Fe,” while “regulations or standards that are not of statewide application may be held within the area that is substantially affected by the regulation or standard.” *Id.* § 74-6-6(C). HB 87 proposes to delete the requirement in the Water Quality Act that the Commission hold hearings in Santa Fe on those proposed regulations and water quality standards “of statewide application,” and in Santa Fe or in the “area that is substantially affected” on those regulations and standards “not of statewide application.” HB 87 instead would allow the Commission to “set the time and place of [all] hearings” in its sole discretion.

HB 87 has an emergency clause.

**FISCAL IMPLICATIONS**

There are no fiscal implications for this office.

**SIGNIFICANT ISSUES**

HB 87 would allow a rulemaking hearing under the Water Quality Act to be held in an area of the state that is not affected by the proposed regulation. In doing so, HB 87 would provide the Commission with broader authority than many other state rulemaking bodies have with respect to the location of public hearings that they conduct. *See, e.g.*, NMSA 1978, § 69-25A-6(B) (Coal Surface Mining Commission rulemaking hearings must be held in Santa Fe); *id.* § 72-2-8(D) (Office of the State Engineer rulemaking hearings must be held in Santa Fe); *id.* § 74-4-5(A) (hearings before the Environmental Improvement Board (“EIB”) on hazardous waste regulations must be held in Santa Fe or an area “substantially affected”).

**PERFORMANCE IMPLICATIONS**

There are no performance implications for this office.

**ADMINISTRATIVE IMPLICATIONS**

There are no administrative implications for this office.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None at this time.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

Other environmental statutes require rulemaking hearings to be held in Santa Fe or an area of the state that is substantially affected. *See* NMSA 1978, § 74-2-6(B) (hearings before EIB on air quality regulations “of nonstatewide application” must be held in the area “substantially affected” by the regulation, and hearings on regulations “of statewide application” may be held in Santa Fe or any area “substantially affected”); *id.* § 74-4-5(A) (hearings before the EIB on hazardous waste regulations must be held in Santa Fe or an area “substantially affected”). These statutes ensure that rulemaking hearings are held in an area substantially affected by the regulation, if not in Santa Fe.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Commission rulemaking and standards hearings of “statewide application” will continue to be held in Santa Fe, and such hearings “not of statewide application” may be held in the area substantially affected as determined by the Commission.

**AMENDMENTS**

N/A.