

LFC Requester:	Armstrong
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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:

Original	<input type="checkbox"/>	Amendment	<input type="checkbox"/>	Date	<u>March 6, 2015</u>
Correction	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Bill No:	<u>SB455-452</u>

Sponsor:	<u>Senators Wirth/Rue</u>	Agency Code:	<u>Attorney General's Office</u>
Short	<u>New Mexico Units Report</u>	Person Writing	<u>Sarah Bond, AAG</u>
Title:	<u>To Legislature</u>	Phone:	<u>827-7481</u> Email <u>sbond@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)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Possible Conflicts with SB 461, Relates to: SB 461.
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:

Section 1 amends Section 72-14-45, NMSA 1978 in a number of ways differently than the original bills. It specifies that the Gila-San Francisco water commission is the successor to the southwest New Mexico water study group and requires the Interstate Stream Commission (ISC) to work with it in that capacity. It does not repeal the general rule making authority granted in that statute, as did the prior SB 542. It continues to require the ISC to make numerous detailed studies reporting annually to the appropriate legislative committee, prior to making certain expenditures, and adds all prior fiscal years to the years for which reports need be submitted.

The committee substitute continues to require, as a condition precedent, the Secretary of the Commission to provide recommendations to the ISC for various aspects of implementing the Arizona Water Settlements Act (AWSA), Section 1, p. 5, lines 5-7. The committee substitute rather than requiring the ISC to adopt rules to implement certain mandated conditions for ensuring adequate public notice and ability to participate in all deliberations specifies the elements of public notice to be offered. See, Section 1, p. 4, lines 18-23.

Section 2 adds new material for inclusion in Title 72, Article 14 of NMSA, including that the ISC provide an initial grant of not less than \$100,000 to the New Mexico CAP entity from the New Mexico unit fund to develop the CP entity’s ability to perform its functions under the joint powers agreement. The ISC and the New Mexico CAP entity also must release a draft report by August 15, 2015, to include numerous details of all major components of the New Mexico unit, expected schedule, findings regarding both technical and financial feasibility, water supply reliability, affordability to end users, specific uses of water for each phase of the project, and summaries of various scientific and technical calculations related to the project. The ISC and CAP entity must also report to the legislative finance committee and any other interim natural resources committee, consider those committees’ recommendations, and may make changes based on those recommendations. All ISC actions set forth in the AWSA must be preceded by ISC’s considerations and deliberations presented in open public meetings. The new language also includes definitions for various technical terms used, e.g., average annual safe yield of usual water, New Mexico unit.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The ISC is currently in litigation defending against claims it violated the New Mexico Open Meetings Act in its November 2014 decision regarding New Mexico's implementation the AWA. As this bill contains numerous provisions related to public notice and participation, it may have some impact on, or be impacted by, any decision rendered in that case.

The ISC decision already made pursuant to the AWSA, Section 212, triggers certain federally mandated deadlines within which other specific actions must be performed to comply with the AWSA. The New Mexico Unit Agreement, for example, must be signed by November 24, 2015. Section 212(1)(c). It is not clear whether the conditions precedent required in this bill can be accomplished in time to meet the federally required deadlines. If not, the passage of the bill could put New Mexico in breach of the provisions of the applicable requirements in Section 212 of the AWSA.

As noted in the ISC's initial FIR, this may create future conflicts of interest as the State Engineer, the statutorily designated secretary of the ISC, would also be required to make a determination on any future water right or change applications submitted to the Office of the State Engineer for use in conjunction with a project chosen to implement the AWSA.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A