

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

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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{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: Date Feb. 13, 2015
Original **Amendment** **Bill No:** SB 542
Correction **Substitute**

Sponsor: Senator Sander Rue **Agency Code:** Attorney General's Office
Short Title: NM Unit Fund & Stream Commission Actions **Person Writing:** Sarah Bond, AAG
Phone: 827-7481 **Email:** sbond@nmag.gov

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)

Conflicts with: 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 72-14-45 by repealing the Interstate Stream Commission’s (ISC) general authority to adopt rules to carry out the section and giving the ISC more specific rulemaking authority require certain conditions precedent to the ISC taking an action that would spend 5 million dollars or more from the New Mexico unit.

The conditions precedent include that the ISC recognize any successor to the southwest New Mexico water study group and adopt rules establishing minimum requirements for consultation with the successor to the southwest NM water study group under the Arizona Water Settlements Act of 2004 (AWSA) as a condition precedent to any encumbrance from the New Mexico unit fund.

The ISC must adopt rules that include provision for conducting such consultations publicly with ISC’s delegated representatives with advance notice, live internet streaming and recording that is made publicly available and with opportunities for public comment and written minutes. The ISC must adopt rules to establish minimum requirements to approve or disapprove each binding monetary commitment in an open public meeting and establish procedural requirements therefore. New procedural requirements are required to be included in rules for actions to approve or disapprove any proposed encumbrance of \$50,000 or less, with additional requirements for commitments of \$50,000 or more, including advance recommendations from the ISC secretary.

Section 2 enacts a new section of Chapter 72, Article 14 and establishes additional conditions precedent for the ISC to act as the State under the AWSA, including that all ISC substantive deliberations be conducted under the Open Meetings Act; the ISC approve a written assessment of the ability to fulfill the New Mexico CAP entity’s obligations under a joint powers agreement; the ISC authorize the New Mexico CAP entity to assume responsibilities of a New Mexico unit of the AWSA including ISC’s definitions and findings of feasibility and project design, costs and funding. Section 2 also requires the ISC secretary to determine the probability of receiving funds up to \$28 million prior to the ISC assessment of financial feasibility, to obtain and respond to

public comment prior to approving any end user contracts, and to encourage the secretary of interior to provide for public observation of contract negotiations. Section 2 also provides definitions for terms used in the section.

FISCAL IMPLICATIONS N/A

SIGNIFICANT ISSUES

None, other than the possible conflict which could arise in implementation, with SB 461. See, below.

PERFORMANCE IMPLICATIONS N/A

ADMINISTRATIVE IMPLICATIONS N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to, possible future conflict with, SB 461. SB 541 requires the ISC to pay no less than \$ 77 million dollars from the New Mexico unit fund for implementation of specified nondiversion alternatives. SB 542 imposes numerous conditions precedent to spending any money from that fund. If the conditions precedent required by SB542 for the alternatives commanded by SB 461 cannot be met, the ISC would not be able to comply with both acts. That is, if the studies and actions performed as required in Section 1 of SB 542 on the specified nondiversion alternatives required in SB 461 do not produce the required determinations; the ISC cannot spend no less than \$77 million dollars on nondiversion alternatives as required by SB 461.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None identified.