HOUSE BILL

58TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2027

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO WATER; ESTABLISHING AN EXCESS WATER USE FEE FOR WATER-INTENSIVE FACILITIES; CREATING THE WATER RESTORATION FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] DATA CENTER WATER OFFSET REQUIREMENTS.--

A. Except as provided in Subsection F of this section, on March 1 of each year, a water-intensive facility shall pay an excess water use fee to the office of the state engineer. The fee shall be calculated based on the amount of water used by the facility in excess of the water use threshold, according to a methodology established by the office.

B. The office of the state engineer shall

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establish:

(1) requirements for how and when a water-intensive facility shall report water use data to the office of the state engineer;

(2) a methodology for determining and verifying the annual amount of water used by a water-intensive facility and the water use threshold;

(3) a methodology for calculating the amount of water used by a water-intensive facility in excess of the water use threshold; and

(4) protocols for assessing and collecting excess water use fees imposed pursuant to this section.

C. The office of the state engineer may impose an administrative penalty on the owner or operator of a water-intensive facility for failure to pay an excess water use fee when due. An administrative penalty imposed pursuant to this section shall not exceed **[TBD]** per violation per day. If the owner or operator of a water-intensive facility fails to pay an excess water use fee or administrative penalty assessed pursuant to this section, the office of the state engineer may commence a civil action in district court to collect the unpaid fee or penalty.

D. The "water restoration fund" is created as a nonreverting fund in the state treasury. The fund consists of fees, appropriations, gifts, grants, donations, income from

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investment of the fund and other money credited to the fund. The interstate stream commission shall administer the fund, and money in the fund is subject to appropriation by the legislature to the commission to support projects that conserve, protect or restore water resources in the state. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the interstate stream commission or the director's authorized representative.

E. Excess water use fees and administrative penalties collected pursuant to this section shall be deposited in the water restoration fund.

F. A medical facility is not a water-intensive facility for the purposes of this section.

G. As used in this section:

(1) "medical facility" means a facility licensed or certified under state or federal law to provide health care services directly to patients, including a hospital, a clinic, an ambulatory surgical center, a nursing facility or other facility providing direct patient care;

(2) "water use threshold" means the maximum amount of potable water that a water-intensive facility can consume annually before an excess water use fee is assessed, expressed in acre-feet per employee or contractor, as determined by the office of the state engineer; and

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(3) "water-intensive facility" means an entity located within the state that uses at least **[TBD]** acre-feet of potable water annually.

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