

HOUSE BILL 17

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO WATER; CLARIFYING THAT A LEASE OF A WATER RIGHT
HAWC→SERVED BY AN ACEQUIA OR COMMUNITY DITCH←HAWC AND
SUBSEQUENT USE OF THAT WATER SHALL NOT TAKE EFFECT UNTIL AFTER
THE APPLICATION HAS BEEN APPROVED IN ACCORDANCE WITH LAW;
DECLARING AN EMERGENCY.

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

SECTION 1. Section 72-6-3 NMSA 1978 (being Laws 1967, Chapter 100, Section 3, as amended by Laws 2014, Chapter 45, Section 2 and by Laws 2014, Chapter 48, Section 2) is amended

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to read:

"72-6-3. OWNER MAY LEASE USE OF WATER.--

A. An owner may lease to any person all or any part of the water use due the owner under the owner's water right, and the owner's water right shall not be affected by the lease of the use. The use to which the owner is entitled under the owner's right shall, during the exercise of the lease, be reduced by the amount of water so leased. Upon termination of the lease, the water use and location of use subject to the lease shall revert to the owner's original use and location of use.

B. HAWC→~~After the application is made, notice and opportunity for a hearing is provided and the application is approved, pursuant to Sections 72-6-4 through 72-6-6 NMSA 1978,~~
~~the~~ The←HAWC lease may be effective for immediate use of water or may be effective for future use of the water covered by the lease; however, the lease shall not be effective to cumulate water from year to year or to substantially enlarge the use of the water in such manner that it would injure other water users. The lease shall not toll any forfeiture of water rights for nonuse, and the owner shall not, by reason of the lease, escape the forfeiture for nonuse prescribed by law; provided, however, that the state engineer shall notify both the owner and the lessee of declaration of nonuser as provided in Sections 72-5-28 and 72-12-8 NMSA 1978. The initial or any

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renewal term of a lease of water use shall not exceed ten years, except as provided in Subsections C and D of this section.

C. A water use may be leased for forty years by municipalities, counties, state universities, special water users' associations, public utilities supplying water to municipalities or counties and member-owned community water systems as lessee and shall be entitled to the protection of the forty-year water use planning period as provided in Section 72-1-9 NMSA 1978.

HAWC→**D.**←HAWC A water use deriving from an acequia or community ditch organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978, whether owned by a water right owner under the acequia or community ditch or by the acequia or community ditch, may be leased for a term not to exceed ten years HAWC→; **provided that pursuant to the rules or bylaws duly adopted by its members, an acequia or community ditch may require that any water use lease of a water right served by the acequia or community ditch, or any water use lease in which a water right is moved into and then served by the acequia or community ditch, shall be subject to approval by the commissioners of the acequia or community ditch in accordance with the procedures for approval of changes in point of diversion or place or purpose of use as provided in Subsection E of Section 73-2-21 NMSA 1978 and Sections 72-5-24.1 and 73-3-4.1 NMSA 1978**←HAWC.

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HAWC→~~D.~~ E.←HAWC A water use due under an adjudicated water right secured to a pueblo pursuant to the settlement agreements approved in Title 5 and Title 6 of the federal Claims Resolution Act of 2010, P.L. No. 111-291, Sections 501-626, or in the partial final judgments and decrees entered pursuant to those settlement agreements, may be leased for a term, including all renewals, not to exceed the term specifically authorized in that act; provided that this subsection shall not apply to any water use due under any state-law based water rights acquired by a pueblo or by the United States on behalf of a pueblo."

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.