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HOUSE BILL 30

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Christine Chandler and Peter Wirth and Kristina Ortez

AN ACT

RELATING TO WATER; CLARIFYING THAT A LEASE OF WATER UNDER A
WATER RIGHT 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) is amended 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

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1 the lease, the water use and location of use subject to the
2 lease shall revert to the owner's original use and location of
3 use.

4 B. After the application is made, notice and
5 opportunity for a hearing are provided and the application is
6 approved in accordance with Sections 72-6-4 through 72-6-6 NMSA
7 1978, the lease may be effective for immediate use of water or
8 may be effective for future use of the water covered by the
9 lease; however, the lease shall not be effective to cumulate
10 water from year to year or to substantially enlarge the use of
11 the water in such manner that it would injure other water
12 users. The lease shall not toll any forfeiture of water rights
13 for nonuse, and the owner shall not, by reason of the lease,
14 escape the forfeiture for nonuse prescribed by law; provided,
15 however, that the state engineer shall notify both the owner
16 and the lessee of declaration of nonuser as provided in
17 Sections 72-5-28 and 72-12-8 NMSA 1978. The initial or any
18 renewal term of a lease of water use shall not exceed ten
19 years, except as provided in Subsections C [~~and D~~] through E of
20 this section.

21 C. A water use may be leased for forty years by
22 municipalities, counties, state universities, special water
23 users' associations, public utilities supplying water to
24 municipalities or counties and member-owned community water
25 systems as lessee and shall be entitled to the protection of

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1 the forty-year water use planning period as provided in Section
2 72-1-9 NMSA 1978.

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

18 E. A water use due under an adjudicated water right
19 secured to a pueblo pursuant to the settlement agreements
20 approved in Title 5 and Title 6 of the federal Claims
21 Resolution Act of 2010, P.L. No. 111-291, Sections 501-626, or
22 in the partial final judgments and decrees entered pursuant to
23 those settlement agreements, may be leased for a term,
24 including all renewals, not to exceed the term specifically
25 authorized in that act; provided that this subsection shall not

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1 apply to any water use due under any state-law based water
2 rights acquired by a pueblo or by the United States on behalf
3 of a pueblo."

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

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