

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 337

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO WATER PLANNING; ENACTING THE WATER SECURITY
PLANNING ACT; AUTHORIZING THE INTERSTATE STREAM COMMISSION TO
MAKE LOANS AND GRANTS FOR REGIONAL WATER PLANNING; REQUIRING
THE INTERSTATE STREAM COMMISSION TO MAKE RULES AND GUIDELINES
FOR REGIONAL WATER PLANNING; PROVIDING DUTIES OF REGIONAL WATER
PLANNING ENTITIES Hf11→; **PROTECTING PRIORITY ADMINISTRATION
AND WATER RIGHTS OWNERS**←Hf11 .

.225473.1AIC March 22, 2023 (12:13pm)

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through Hf11→4←Hf11 Hf11→5←Hf11 of this act may be cited as the "Water Security Planning Act".

SECTION 2. [NEW MATERIAL] DEFINITION.--As used in the Water Security Planning Act, "commission" means the interstate stream commission.

Hf11→SECTION 3. [NEW MATERIAL] CONDEMNATION OF WATER RIGHTS.--Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state.←Hf11

SECTION Hf11→3.←Hf11 Hf11→4.←Hf11 [NEW MATERIAL] WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--

A. Subject to available funding, the commission shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning Act. The commission may make grants or loans of funds for the purpose of regional water planning, as possible, using appropriations made for that purpose.

B. The commission shall establish a procedure, in consultation with the Indian affairs department, to establish an advisory council for taking into account in the regional water security program tribal sovereignty, tribal water rights

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and the water needs of tribal communities.

C. The commission shall:

(1) promulgate rules that, at a minimum, establish:

(a) the boundaries and number of water planning regions in the state;

(b) the criteria for commission approval of a regional water security plan with prioritized projects Hf11→~~and activities~~←Hf11 Hf11→, **programs and policies**←Hf11 ;

(c) the procedure for a regional water planning entity to develop and provide notice to the commission of issues and concerns relating to the public welfare of the water planning region;

(d) the composition of a regional water planning entity; and

(e) the procedure for a regional water planning entity to consider Hf11→~~environmental noneconomic~~←Hf11 Hf11→**public welfare**←Hf11 values and the needs of future generations of New Mexicans;

(2) adopt guidelines that, at a minimum, address:

Hf11→**(a) the identification of regional stakeholders and opportunities for stakeholder collaboration;**←Hf11

Hf11→~~(a)~~←Hf11 Hf11→~~(b)~~←Hf11 the public

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input requirements for regional water planning;

Hf11→(b)←Hf11 Hf11→(c)←Hf11 the requirements for a proposal for grants or loans for planning activities;

Hf11→(c)←Hf11 Hf11→(d)←Hf11 the process for approval of grants or loans;

Hf11→(d)←Hf11 Hf11→(e)←Hf11 the process for state agency collaboration;

Hf11→(e)←Hf11 Hf11→(f)←Hf11 the metrics for reporting on regional water projects Hf11→and activities←Hf11 Hf11→, programs and policies←Hf11 ;

Hf11→(f)←Hf11 Hf11→(g)←Hf11 the procedures to support implementation of a regional water security plan; and

Hf11→(g)←Hf11 Hf11→(h)←Hf11 the schedule for implementation of regional water planning, including integration with statewide objectives;

(3) emphasize engagement, communication and education in regional water planning activities statewide;

(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;

(5) provide engagement with acequia communities;

(6) provide for the Hf11→equitable←Hf11

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engagement of rural Hf11→~~and at-risk~~←Hf11 communities;

(7) ensure, by using the integrated water data and information platform developed pursuant to the Water Data Act and collaborating with the bureau of geology and mineral resources of the New Mexico institute of mining and technology and the water resources research institute, that the best science, data and models relating to water resource planning are available to the regional water planning entities and are used with scientific integrity and adherence to principles of honesty, objectivity, transparency and professionalism in developing, vetting and prioritizing proposals;

(8) report, by October 31 of each year, to the appropriate legislative interim committee dealing with water and natural resources and, by October 31 of each year, distribute the report to the appropriate state agencies dealing with water and natural resources on regional water planning implementation that includes:

(a) approved regional water security plans with prioritized projects Hf11→~~and activities~~←Hf11 Hf11→, ~~programs and policies~~←Hf11 for state funding;

(b) outcomes of regional water security plan implementation; and

(c) the status of regional water planning expenditures; and

(9) support regional water planning entities

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by:

(a) providing technical and local capacity development support, including Hf11→**locally based**←Hf11 commission staff and funding;

(b) providing statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973 and congressionally authorized tribal water settlement acts;

(c) supporting the development of a proposal for alternative administration through active water resources management Hf11→, **if prioritized by the region,**←Hf11 that may be submitted to the state engineer and affected Indian nations, tribes and pueblos for approval; and

(d) identifying funding sources and supporting the acquisition of funds for implementation of approved regional water security plans.

SECTION Hf11→**4.**←Hf11 Hf11→**5.**←Hf11 [NEW MATERIAL]

REGIONAL WATER PLANNING ENTITIES.--

A. An entity shall not be made a part of a proposal for planning funds under this section without that entity's consent.

B. The outcomes sought by each regional water planning entity shall:

- (1) be established through broad public input;

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(2) Hf11→~~seek to equitably balance water uses~~←Hf11 Hf11→consider public welfare values, balancing water uses and the needs of future generations of New Mexicans←Hf11 ;

(3) be grounded in state water law;

Hf11→~~(4) consider environmental, noneconomic values and the needs of future generations of New Mexicans;~~←Hf11

Hf11→~~(5)~~←Hf11 Hf11→(4)←Hf11 be developed using the best available science;

Hf11→~~(6)~~←Hf11 Hf11→(5)←Hf11 recognize and respect federally recognized or reserved tribal water rights;

Hf11→~~(7)~~←Hf11 Hf11→(6)←Hf11 Hf11→provide for equitable←Hf11 Hf11→consider←Hf11 access to water for domestic use; and

Hf11→~~(8)~~←Hf11 Hf11→(7)←Hf11 comply with applicable federal water law.

C. Each regional water planning entity shall:

(1) be composed of regional stakeholders Hf11→as identified in the entity's guidelines←Hf11 ;

(2) ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region;

(3) obtain public input in the development, vetting and prioritization of regional water planning

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activities and proposals;

(4) assist in the funding, development and incorporation of plans for Hf11→~~at-risk~~←Hf11 Hf11→~~rural~~←Hf11 communities;

(5) report to the commission by June 30 of each year on the progress of planning activities and outcomes of regional water security plan implementation; and

(6) review existing water plans and data sets of municipalities, counties and other entities within the water planning region and use them as appropriate.

SECTION Hf11→~~5.~~←Hf11 Hf11→~~6.~~←Hf11 Section 72-14-44 NMSA 1978 (being Laws 1987, Chapter 182, Section 2) is amended to read:

"72-14-44. INTERSTATE STREAM COMMISSION--GROUNDWATER APPROPRIATION--WATER RIGHTS PURCHASE Hf11→~~WATER PLANNING FUNDING~~←Hf11 .--

A. The interstate stream commission is authorized to appropriate groundwater or purchase water rights on behalf of any of the various regions of the state.

B. Nothing in this section shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of Indian nations, tribes or pueblos.

~~[C. The interstate stream commission is authorized to make grants or loans of funds for the purpose of regional~~

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~~water planning. Prior to approval of any proposal by a region for planning funds under this section, the commission shall develop criteria for evaluating such proposals. These criteria at a minimum shall provide for:~~

~~(1) identification of the region requesting planning funds and why it is hydrologically and politically an appropriate applicant;~~

~~(2) use of an appropriate planning process, including opportunities for participation by those Indian tribes located within the various regions of the state;~~

~~(3) reasonable proposed costs and timetables for completion of the planning process;~~

~~(4) appropriate provisions for notice, review and comment where applicable;~~

~~(5) adequate review of potential conflict with laws relating to impact on existing water rights;~~

~~(6) adequate review of water conservation and the effect on the public welfare; and~~

~~(7) identification of sources other than the interstate stream commission for funding of the proposed regional planning process.~~

~~D. A water planning region eligible for funding under this section is an area within the state that contains sufficient hydrological and political interests in common to make water planning feasible. The state as a whole shall not~~

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~~be considered a water planning region for purposes of this section.~~

~~E. No entity shall be made a part of a proposal for planning funds under this section without its consent.~~

~~F. No funds shall be granted under this act to any party or parties that are not within a water planning region. Whether a proposal for funding falls within a water planning region shall be determined on a case-by-case basis by the interstate stream commission after consultation with the state engineer and consideration of the following:~~

~~(1) whether the source of water and the potential place of use of the water are located within the same hydrologic basin; and~~

~~(2) if there is more than one party and the parties are requesting funds on a joint basis, whether the parties have demonstrated political and economic interests in common by entering into a binding intergovernmental agreement for carrying out the planning process.]"~~

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