

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 337

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

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.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 4 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.

SECTION 3. [NEW MATERIAL] WATER PLANNING FUNDING--

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1 REGIONAL WATER PLANNING--RULES--GUIDELINES.--

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

8 B. The commission shall establish a procedure, in  
9 consultation with the Indian affairs department, to establish  
10 an advisory council for taking into account in the regional  
11 water security program tribal sovereignty, tribal water rights  
12 and the water needs of tribal communities.

13 C. The commission shall:

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

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

18 (b) the criteria for commission approval  
19 of a regional water security plan with prioritized projects and  
20 activities;

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

25 (d) the composition of a regional water

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1 planning entity; and

2 (e) the procedure for a regional water  
3 planning entity to consider environmental noneconomic values  
4 and the needs of future generations of New Mexicans;

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

7 (a) the public input requirements for  
8 regional water planning;

9 (b) the requirements for a proposal for  
10 grants or loans for planning activities;

11 (c) the process for approval of grants  
12 or loans;

13 (d) the process for state agency  
14 collaboration;

15 (e) the metrics for reporting on  
16 regional water projects and activities;

17 (f) the procedures to support  
18 implementation of a regional water security plan; and

19 (g) the schedule for implementation of  
20 regional water planning, including integration with statewide  
21 objectives;

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

24 (4) provide engagement with Indian nations,  
25 tribes and pueblos, including through the use of the State-

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1 Tribal Collaboration Act;

2 (5) provide engagement with acequia  
3 communities;

4 (6) provide for the equitable engagement of  
5 rural and at-risk communities;

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

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

22 (a) approved regional water security  
23 plans with prioritized projects and activities for state  
24 funding;

25 (b) outcomes of regional water security

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1 plan implementation; and

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

4 (9) support regional water planning entities  
5 by:

6 (a) providing technical and local  
7 capacity development support, including locally based  
8 commission staff and funding;

9 (b) providing statewide objectives for  
10 regional water security plan development, including compliance  
11 with interstate compacts, the federal Endangered Species Act of  
12 1973 and congressionally authorized tribal water settlement  
13 acts;

14 (c) supporting the development of a  
15 proposal for alternative administration through active water  
16 resources management that may be submitted to the state  
17 engineer and affected Indian nations, tribes and pueblos for  
18 approval; and

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

22 SECTION 4. [NEW MATERIAL] REGIONAL WATER PLANNING  
23 ENTITIES.--

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

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1 consent.

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

- 4 (1) be established through broad public input;
- 5 (2) seek to equitably balance water uses;
- 6 (3) be grounded in state water law;
- 7 (4) consider environmental, noneconomic values  
8 and the needs of future generations of New Mexicans;
- 9 (5) be developed using the best available  
10 science;
- 11 (6) recognize and respect federally recognized  
12 or reserved tribal water rights;
- 13 (7) provide for equitable access to water for  
14 domestic use; and
- 15 (8) comply with applicable federal water law.

16 C. Each regional water planning entity shall:

- 17 (1) be composed of regional stakeholders;
- 18 (2) ensure opportunities for participation by  
19 Indian nations, tribes or pueblos located within the water  
20 planning region;
- 21 (3) obtain public input in the development,  
22 vetting and prioritization of regional water planning  
23 activities and proposals;
- 24 (4) assist in the funding, development and  
25 incorporation of plans for at-risk communities;

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

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

7 SECTION 5. Section 72-14-44 NMSA 1978 (being Laws 1987,  
 8 Chapter 182, Section 2) is amended to read:

9 "72-14-44. INTERSTATE STREAM COMMISSION--GROUNDWATER  
 10 APPROPRIATION--WATER RIGHTS PURCHASE--WATER PLANNING FUNDING.--

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

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

18 [~~G. The interstate stream commission is authorized~~  
 19 ~~to make grants or loans of funds for the purpose of regional~~  
 20 ~~water planning. Prior to approval of any proposal by a region~~  
 21 ~~for planning funds under this section, the commission shall~~  
 22 ~~develop criteria for evaluating such proposals. These criteria~~  
 23 ~~at a minimum shall provide for:~~

24 (1) ~~identification of the region requesting~~  
 25 ~~planning funds and why it is hydrologically and politically an~~

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1 ~~appropriate applicant;~~

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

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

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

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

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

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

16 ~~D. A water planning region eligible for funding~~  
17 ~~under this section is an area within the state that contains~~  
18 ~~sufficient hydrological and political interests in common to~~  
19 ~~make water planning feasible. The state as a whole shall not~~  
20 ~~be considered a water planning region for purposes of this~~  
21 ~~section.~~

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

24 ~~F. No funds shall be granted under this act to any~~  
25 ~~party or parties that are not within a water planning region.~~

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1 ~~Whether a proposal for funding falls within a water planning~~  
2 ~~region shall be determined on a case-by-case basis by the~~  
3 ~~interstate stream commission after consultation with the state~~  
4 ~~engineer and consideration of the following:~~

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

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

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