HOUSE AGRICULTURE, ACEQUIAS AND WATER RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 37

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO PROPERTY TAX; PROVIDING THAT THE RESTING OF LAND DUE TO A SPECIAL WATER DISTRICT'S MAN-MADE WATER INFRASTRUCTURE FAILURE THAT RESULTS IN LESS WATER BEING DELIVERED MEANS "AGRICULTURAL USE" FOR THE PURPOSE OF THE VALUATION OF PROPERTY FOR PROPERTY TAX PURPOSES; REQUIRING A SPECIAL WATER DISTRICT TO CERTIFY WATER SCARCITY TO A COUNTY ASSESSOR.

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

SECTION 1. Section 7-36-20 NMSA 1978 (being Laws 1973, Chapter 258, Section 21, as amended) is amended to read:

"7-36-20. SPECIAL METHOD OF VALUATION--LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES.--

A. The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. Evidence of

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bona fide primary agricultural use of land for the tax year preceding the year for which determination is made of eligibility for the land to be valued under this section creates a presumption that the land is used primarily for agricultural purposes during the tax year in which the determination is made. If the land was valued under this section in one or more of the three tax years preceding the year in which the determination is made and the use of the land has not changed since the most recent valuation under this section, a presumption is created that the land continues to be entitled to that valuation.

B. [~~For the purpose of~~] As used in this section:

(1) "agricultural products" means plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish; [~~and~~]

(2) "agricultural use" means the:

(a) use of land for the production of agricultural products;

(b) use of land that meets the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government;

(c) resting of land to maintain its capacity to produce agricultural products; [~~or~~]

(d) resting of land as the direct result

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of at least moderate drought conditions as designated by the United States department of agriculture, if the drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year; provided that the land was used in the tax year immediately preceding the previous tax year primarily for a purpose identified pursuant to this paragraph; or

(e) resting of land as the direct result of a man-made water infrastructure failure in a special water district that results in a delivery of seventy percent or less water than what was delivered to all of the district's water users in the previous calendar year, as certified by the special water district to the appropriate county assessor pursuant to Section 2 of this 2026 act; provided that the land was used primarily for a purpose identified in Subparagraphs (a) through (d) of this paragraph in the tax year immediately preceding the previous tax year; and

(3) "special water district" means a conservancy district organized pursuant to Chapter 73, Articles 14 through 19 NMSA 1978, an acequia or community ditch association organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978, an irrigation district organized pursuant to Chapter 73, Articles 9 through 13 NMSA 1978, an artesian conservancy district organized pursuant to Chapter 73, Article 1 NMSA 1978 or any other entity with statutory authority to deliver water

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<u>to customers in New Mexico</u>.

C. The department shall adopt rules for determining whether land is used primarily for agricultural purposes. The rules shall provide that the use of land for the lawful taking of game shall not be considered in determining whether land is used primarily for agricultural purposes.

D. The department shall adopt rules for determining the value of land used primarily for agricultural purposes. The rules shall:

(1) specify procedures to use in determining the capacity of land to produce agricultural products and the derivation of value of the land based upon its production capacity;

(2) establish carrying capacity as the measurement of the production capacity of land used for grazing purposes, develop a system of determining carrying capacity through the use of an animal unit concept and establish carrying capacities for the land in the state classified as grazing land;

(3) provide that land the bona fide and primary use of which is the production of captive deer or elk shall be valued as grazing land and that captive deer shall be valued and taxed as sheep and captive elk shall be valued and taxed as cattle;

(4) provide for the consideration of

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determinations of any other governmental agency concerning the capacity of the same or similar lands to produce agricultural products;

(5) assure that land determined under the rules to have the same or similar production capacity shall be valued uniformly throughout the state; and

(6) provide for the periodic review by the department of determined production capacities and capitalization rates used for determining annually the value of land used primarily for agricultural purposes.

E. All improvements, other than those specified in Section 7-36-15 NMSA 1978, on land used primarily for agricultural purposes shall be valued separately for property taxation purposes, and the value of these improvements shall be added to the value of the land determined under this section.

F. The owner of the land shall make application to the county assessor in a tax year in which the valuation method of this section is first claimed to be applicable to the land or in a tax year immediately subsequent to a tax year in which the land was not valued under this section. Application shall be made under oath, shall be in a form and contain the information required by department rules and shall be made no later than thirty days after the date of mailing by the assessor of the notice of valuation. Once land is valued under this section, application need not be made in subsequent tax

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years as long as there is no change in the use of the land.

G. The owner of land valued under this section shall report to the county assessor whenever the use of the land changes so that it is no longer being used primarily for agricultural purposes. This report shall be made on a form prescribed by department rules and shall be made by the last day of February of the tax year immediately following the year in which the change in the use of the land occurs.

H. Any person who is required to make a report under the provisions of Subsection G of this section and who fails to do so is personally liable for a civil penalty in an amount equal to the greater of twenty-five dollars ($25.00) or twenty-five percent of the difference between the property taxes ultimately determined to be due and the property taxes originally paid for the tax years for which the person failed to make the required report."

SECTION 2. [NEW MATERIAL] WATER SCARCITY DUE TO A MAN-MADE WATER INFRASTRUCTURE FAILURE IN CERTAIN SPECIAL WATER DISTRICTS.--

A. A special water district that experiences a man-made water infrastructure failure that directly results in a delivery of seventy percent or less water than what was delivered to all of the district's water users in the previous calendar year shall immediately certify that information to the appropriate county assessor in the same

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property tax year that the failure occurred. Certification pursuant to this subsection shall be submitted once each tax year in which the failure continues.

B. As used in this section, "special water district" means a conservancy district organized pursuant to Chapter 73, Articles 14 through 19 NMSA 1978, an acequia or community ditch association organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978, an irrigation district organized pursuant to Chapter 73, Articles 9 through 13 NMSA 1978, an artesian conservancy district organized pursuant to Chapter 73, Article 1 NMSA 1978 or any other entity with statutory authority to deliver water to customers in New Mexico.

SECTION 3. APPLICABILITY.--The provisions of this act apply to property tax years beginning on or after January 1, 2026.

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