SENATE BILL 123

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

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FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; PROVIDING FOR COMPLIANCE WITH AN ACEQUIA OR COMMUNITY DITCH REQUIREMENT FOR A CHANGE IN POINT OF DIVERSION OR PLACE OR PURPOSE OF USE OF A WATER RIGHT.

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

Section 1. A new section of Chapter 72, Article 5 NMSA 1978 is enacted to read:

"[NEW MATERIAL] ACEQUIAS AND COMMUNITY DITCHES--CHANGES IN POINT OF DIVERSION OR PLACE OR PURPOSE OF USE.--The state engineer shall not approve an application for a change, including an emergency change, in point of diversion or place or purpose of use of a water right into or out of an acequia or community ditch if the applicant has not complied with the applicable requirement adopted by an acequia or community ditch

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1   pursuant to Section 73-2-21 NMSA 1978."

2   Section 2.   Section 73-2-21 NMSA 1978 (being Laws 1895,

3   Chapter 1, Section 4, as amended) is amended to read:

4   "73-2-21.   COMMISSIONERS' POWERS AND DUTIES--MAYORDOMO'S

5   DUTIES.--

6   A.   The commissioners shall:

7   (1)   assess fatigue work or tasks of all

8   parties owning water rights in [said] such community ditches or

9   acequias [and shall];

10   (2)   have power to contract and be contracted

11   with [and also to];

12   (3)   make all necessary assessments to provide

13   funds for the payment of the salary of the mayordomo and other

14   legitimate expenses incident to the proper conduct and

15   maintenance of the acequias under their charge [and also to];

16   (4)   make contracts for obtaining water for

17   irrigation purposes in connection with their ditches, such

18   contracts to be ratified by a vote of a majority of the owners

19   of water rights in [said] the ditches [and shall];

20   (5)   have general charge and control of all

21   affairs pertaining to the same, together with the power to

22   receive money in lieu of [said] such fatigue or task work at a

23   price to be fixed by them; and

24   (6)   [shall] immediately upon taking office,

25   provide bylaws, rules and regulations not in conflict with the

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1   laws of the state for the government of [said] the ditch or

2   acequia, [and] a printed copy [thereof] of which shall be

3   furnished to each owner of a water right in [said] such ditch.

4   B.   The mayordomo or superintendent shall, under the

5   direction of [said] the commissioners, be the executive officer

6   of [said] the ditch and shall:

7   (1)   have the superintendence of all work

8   thereon [and], the distribution of the waters thereof [with]

9   and the collection of fines, if any, and of amounts to be paid

10   in lieu of fatigue or task work [and shall];

11   (2)   perform such other duties in connection

12   with [said] the ditch as may be prescribed by the rules and

13   regulations of the same or as may be directed by the

14   commissioners [said mayordomo shall]; and

15   (3)   make full written reports of all money

16   received, expended and how expended, and of all [his doings]

17   activities performed as such officer to the commissioners of

18   [said] the ditch, semiannually, on the first Monday in June and

19   the last Monday [of] in September; provided, further, that the

20   mayordomo shall make such further reports as may be required by

21   [said] the ditch commissioners.

22   C.   The treasurer of [said] the ditch commissioners

23   shall make [such] reports to the ditch commissioners of the

24   money received, expended and how expended, and kept in [his]

25   the custody of [such] the treasurer, and of all [his doings]

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1   activities performed as such officer as are herein required of

2   the mayordomo.

3   D.   The commissioners shall receive and pass upon

4   the reports of the mayordomo and the treasurer [herein]

5   provided for in this section before their term of office

6   expires [and]. If the [same] reports are found to be true and

7   correct, they shall approve them; otherwise they shall reject

8   them, respectively. All proceedings of the commissioners

9   relating to all subjects whatsoever shall be reduced to writing

10   in a book or books kept for that purpose, and all books and

11   papers so kept by [said] the commissioners and all reports

12   made, filed or kept as herein required shall always be and

13   remain public property, and shall be subject to the inspection

14   of all persons therein concerned.

15   E.   An acequia or community ditch may require that a

16   change in point of diversion or place or purpose of use of a

17   water right served by the acequia or community ditch, or a

18   change in a water right so that it is moved out of or into and

19   then served by the acequia or community ditch, shall be subject

20   to approval by the commissioners of the acequia or community

21   ditch or as otherwise provided in the bylaws, rules or

22   regulations of the acequia or community ditch. The change may

23   be denied if it would be detrimental to the acequia or

24   community ditch or its members."

25   Section 3.   A new section of Chapter 73, Article 2 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] ACEQUIAS AND COMMUNITY DITCHES--CHANGES IN

3 POINT OF DIVERSION OR PLACE OR PURPOSE OF USE.--The state

4 engineer shall not approve an application for a change,

5 including an emergency change, in point of diversion or place

6 or purpose of use of a water right into or out of an acequia or

7 community ditch if the applicant has not complied with the

8 applicable requirement adopted by an acequia or community ditch

9 pursuant to Section 73-2-21 NMSA 1978."

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