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SENATE BILL 554

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

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO WATER; REQUIRING MUNICIPALITIES, COUNTIES AND OTHER
COVERED ENTITIES TO ADOPT WATER CONSERVATION AND DROUGHT
MANAGEMENT PLANS.

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

Section 1. A new section of Chapter 3, Article 17 NMSA
1978 is enacted to read:

"[NEW MATERIAL] WATER CONSERVATION AND DROUGHT MANAGEMENT
PLANS.--A municipality shall adopt by ordinance a comprehensive
water conservation plan and drought management plan pursuant to
the provisions of Section 3 of this act."

Section 2. A new section of Chapter 4 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] WATER CONSERVATION AND DROUGHT MANAGEMENT
PLANS.--A county shall adopt by ordinance a comprehensive water

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1 conservation plan and drought management plan pursuant to the
2 provisions of Section 3 of this act. "

3 Section 3. A new section of Chapter 72, Article 14 NMSA
4 1978 is enacted to read:

5 "[NEW MATERIAL] WATER CONSERVATION PLANS-- MUNICIPALITIES,
6 COUNTIES AND WATER SUPPLIERS. --

7 A. As used in this section, "covered entity" means
8 municipalities, counties and any other person that supplies,
9 distributes or otherwise provides at least five hundred acre-
10 feet of water annually for domestic, commercial, industrial or
11 government customers.

12 B. A covered entity shall develop, adopt and submit
13 to the state engineer by December 31, 2003 a comprehensive
14 water conservation plan, including a drought management plan.

15 C. The manner in which the covered entity develops,
16 adopts and implements a comprehensive water conservation plan
17 shall be determined by the covered entity. The plan shall be
18 accompanied by a program for its implementation.

19 D. In developing a water conservation plan pursuant
20 to this section, the covered entity shall consider at least the
21 following:

22 (1) water-efficient fixtures and appliances,
23 including toilets, urinals, showerheads and faucets;

24 (2) low water-use landscaping and efficient
25 irrigation;

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1 (3) water-efficient commercial and industrial
2 water-use processes;

3 (4) water reuse systems for both potable and
4 non-potable water;

5 (5) distribution system leak repair;

6 (6) dissemination of information regarding
7 water-use efficiency measures, including public education
8 programs and demonstrations of water-saving techniques;

9 (7) water rate structures designed to
10 encourage water-use efficiency in a fiscally responsible
11 manner;

12 (8) regulatory measures, including standards
13 for the use of water-use efficiency for fixtures and
14 landscapes; ordinances; codes; and business practices designed
15 to encourage water-use efficiency; and

16 (9) incentives to implement water use
17 efficiency techniques, including rebates to customers or
18 others, to encourage the installation of water use efficiency
19 measures.

20 E. A water conservation plan shall contain a
21 section stating how the covered entity's water conservation
22 plan accords with the regional water plan for that area, if the
23 regional plan is available and a section detailing how the
24 covered entity will protect drinking water supplies.

25 F. Except for the elements of a water conservation

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1 plan that a covered entity has already implemented prior to
2 July 1, 2003, before adopting any other major elements of a
3 water conservation plan, a covered entity shall publish a draft
4 plan, give public notice of the plan, make the plan publicly
5 available and solicit comments from the public for a period of
6 not less than sixty days after the date on which the draft plan
7 is made publicly available. Reference shall be made in the
8 public notice to the elements of any water conservation plan
9 that have already been implemented.

10 G. A covered entity may at any time adopt changes
11 to its water conservation plan. If the proposed changes are
12 major, the covered entity shall give public notice of the
13 changes, make the changes available in draft form and provide
14 the public an opportunity to comment on such changes before
15 adopting them.

16 H. After July 1, 2004, neither the water trust
17 board nor the New Mexico finance authority shall accept an
18 application from a covered entity for financial assistance in
19 the construction of any water diversion, storage, conveyance,
20 water treatment or wastewater treatment facility unless the
21 covered entity includes a copy of its water conservation plan. "

22 Section 4. Section 6-21-23 NMSA 1978 (being Laws 1992,
23 Chapter 61, Section 23, as amended) is amended to read:

24 "6-21-23. PROHIBITED ACTIONS. --The authority shall not:

25 A. lend money or make a grant other than to a

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1 qualified entity;

2 B. purchase securities other than from a qualified
3 entity or other than for investment as provided in the New
4 Mexico Finance Authority Act;

5 C. lease a public project to any entity other than
6 a qualified entity; except that the authority may lease a
7 public project to any entity following termination of a lease
8 of the public project to a qualified entity if leasing the
9 public project to an entity other than a qualified entity is
10 necessary to avoid forfeiture or impairment of the public
11 project or a default on bonds whose payment is secured, in
12 whole or in part, by the public project or by lease rentals
13 from the public project;

14 D. deal in securities within the meaning of or
15 subject to any securities law, securities exchange law or
16 securities dealers law of the United States or of the state or
17 of any other state or jurisdiction, domestic or foreign, except
18 as authorized in the New Mexico Finance Authority Act;

19 E. issue bills of credit or accept deposits of
20 money for time on demand deposit or administer trusts or engage
21 in any form or manner, or in the conduct of, any private or
22 commercial banking business, or act as a savings bank or
23 savings and loan association or any other kind of financial
24 institution except as authorized in the New Mexico Finance
25 Authority Act;

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1 F. engage in any form of private or commercial
2 banking business except as authorized in the New Mexico Finance
3 Authority Act; ~~[or]~~

4 G. lend money, issue bonds, including public-
5 private partnership project bonds, or make a grant for the
6 promotion of gaming or a gaming enterprise or for development
7 of infrastructure for a gaming facility; or

8 H. after July 1, 2004, except in case of an
9 emergency, accept an application for financial assistance from
10 a municipality, county or other covered entity for a water or
11 wastewater project unless it is submitted with a water
12 conservation plan in accordance with the provisions of Section
13 3 of this 2003 act. "

14 Section 5. Section 72-4A-7 NMSA 1978 (being Laws 2001,
15 Chapter 164, Section 7) is amended to read:

16 "72-4A-7. CONDITIONS FOR GRANTS AND LOANS. --

17 A. Grants and loans shall be made only to state
18 agencies or to political subdivisions that:

19 (1) agree to operate and maintain the water
20 project so that it will function properly over the structural
21 and material design life, which shall not be less than twenty
22 years;

23 (2) require the contractor of the construction
24 project to post a performance and payment bond in accordance
25 with the requirements of Section 13-4-18 NMSA 1978;

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1 (3) provide written assurance signed by an
2 attorney or provide a title insurance policy that the political
3 subdivision has proper title, easements and rights of way to
4 the property upon or through which the water project proposed
5 for funding is to be constructed or extended;

6 (4) meet the requirements of the financial
7 capability set by the board to ensure sufficient revenues to
8 operate and maintain the water project for its useful life and
9 to repay the loan;

10 (5) agree to properly maintain financial
11 records and to conduct an audit of the project's financial
12 records; [~~and~~]

13 (6) agree to pay costs of originating grants
14 and loans as determined by rules adopted by the board; and

15 (7) except in case of an emergency, submit a
16 water conservation plan with its application if required to do
17 so pursuant to Section 3 of this 2003 act.

18 B. Plans and specifications for a water project
19 shall be approved by the authority before grant or loan
20 disbursements to pay for construction costs are made to a state
21 agency or political subdivision.

22 C. Grants and loans shall be made only for eligible
23 items, which include:

- 24 (1) to match federal and local cost shares;
25 (2) engineering feasibility reports;

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- (3) contracted engineering design;
- (4) inspection of construction;
- (5) special engineering services;
- (6) environmental or archaeological surveys;
- (7) construction;
- (8) land acquisition;
- (9) easements and rights of way; and
- (10) legal costs and fiscal agent fees. "