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SENATE BILL 204

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO SPECIAL DISTRICTS; CLARIFYING THE POWERS OF CERTAIN
CONSERVANCY DISTRICTS OVER ACEQUIAS AND COMMUNITY DITCHES;
MAKING AN APPROPRIATION.

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

Section 1. Section 73-14-39 NMSA 1978 (being Laws 1927,
Chapter 45, Section 308) is amended to read:

"73-14-39. GENERAL POWERS.--

~~[(1)]~~ A. Except as provided in Subsection D of this
section, in order to protect life and property within the
district, and to protect or relieve land subject to overflow or
washing or ~~[which]~~ that is menaced or threatened by the normal
flow of flood or surplus or overflow waters of any natural
water course, stream, canyon, arroyo or wash, whether
perennial, intermittent or flood, and in order to effect the

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1 protection of life, land and other property in the district,
2 and to accomplish all other purposes of the district, the board
3 is authorized and empowered:

4 (1) to clean out, straighten, widen, alter,
5 deepen or change the course or terminus of any ditch, community
6 ditch or acequia, drain, sewer, flume, river, water course,
7 pond, lake, creek, arroyo or natural or artificial stream in or
8 out of [~~said~~] the district; to fill up any abandoned or altered
9 ditch, community ditch or acequia, drain, sewer, river, flume,
10 water course, pond, lake, creek, arroyo or natural or
11 artificial stream, and to concentrate, divert or divide the
12 flow of water in or out of [~~said~~] the district; and to
13 construct and maintain main and lateral ditches, community
14 ditches or acequias, sewers, canals, flumes, levees, dikes,
15 dams, sluices, revetments, reservoirs or retarding basins,
16 floodways, wells, pumping stations and [~~siphons~~] siphons and
17 any other works and improvements deemed necessary to construct,
18 preserve, operate or maintain the works in or out of [~~said~~] the
19 district;

20 (2) to construct, reconstruct or enlarge or
21 cause to be constructed, reconstructed or enlarged any and all
22 bridges that may be needed in or out of [~~said~~] the district;

23 (3) to construct, reconstruct or elevate
24 highways and streets;

25 (4) to construct or reconstruct any and all of

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1 ~~[said]~~ the works and improvements along, across, through or
2 over any public highway, canal, railroad right of way, track,
3 grade, fill or cut, in or out of ~~[said]~~ the district; to remove
4 or change the location of any fence, building, railroad, canal
5 or other improvements in or out of ~~[said]~~ the district; and
6 shall have the right to acquire by donation, purchase or
7 condemnation; to construct, own, lease, use and sell; and to
8 hold, encumber, control and maintain any easement, water right,
9 acequias, well, railroad right of way, canal, sluice, flume,
10 reservoir site, reservoir or retarding basin, mill dam, water
11 power, franchise, park, cemetery or any other public way or
12 place or any real or personal property, public or private, in
13 or out of ~~[said]~~ the district, for rights of way and such other
14 things or for materials of construction or for any other use
15 not inconsistent with the purposes of ~~[this]~~ the Conservancy
16 Act of New Mexico; and

17 (5) to replot or subdivide land, to open new
18 roads, highways, parks, streets and alleys or to change the
19 location of existing ones ~~[and provided, further, that]~~.

20 B. In ~~[ease]~~ the event that the construction
21 provided by the official plan interferes with an irrigation
22 ditch, community ditch or acequia or other works used for
23 applying water to beneficial use, the district shall make
24 equivalent provision by means of ditches or works constructed
25 by the district at its expense for supplying ~~[such]~~ the water

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1 to ~~[such]~~ the water users to the extent that ~~[the same]~~ it was
2 being lawfully obtained and used through such ditches or works.

3 C. The district shall have the right to increase at
4 its expense the storage capacity of any reservoirs and to store
5 ~~[therein]~~ in them or release ~~[therefrom]~~ from them water in
6 excess of the capacity of ~~[such]~~ the reservoirs as developed by
7 any person; but ~~[such]~~ the additional storage so created by the
8 district shall not interfere with the storage and regulation of
9 flow of water as developed by ~~[such]~~ that person prior to
10 ~~[such]~~ the increased storage capacity being added by the
11 district ~~[and, that]~~. In ~~[ease]~~ the event that the district
12 ~~[shall increase]~~ increases the storage capacity of any ~~[such]~~
13 reservoir, either by adding to the dam, dams or other
14 structures built, or by removing ~~[such]~~ the dam, dams or other
15 structures and rebuilding ~~[same]~~ them, the damages, if any, to
16 ~~[such]~~ the person for the property so utilized or removed shall
17 be ascertained and paid as provided in the case of property
18 taken by the district by right of eminent domain.

19 D. Any lawfully organized acequia or community
20 ditch located within a conservancy district that includes
21 within its boundaries a class A county with a population
22 greater than five hundred thousand according to the most recent
23 federal decennial census shall have the right to distribute
24 water to its members after the conservancy district has
25 distributed the water to the acequia or community ditch

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1 headgate. An acequia or community ditch shall also have the
2 right, but not the obligation, to enter into a contract with
3 the conservancy district for the operation and maintenance of
4 the acequia or community ditch. Nothing in this subsection
5 modifies any provision relating to the powers, duties and
6 authority of a conservancy district as provided for in the
7 Conservancy Act of New Mexico, or modifies or abrogates the
8 rights of any individuals to all rights of use and ownership of
9 vested water rights."

10 Section 2. APPROPRIATION.--Fifty thousand dollars
11 (\$50,000) is appropriated from the general fund to the local
12 government division of the department of finance and
13 administration for expenditure in fiscal year 2011 to maintain
14 acequias in the south valley area of Bernalillo county. Any
15 unexpended or unencumbered balance remaining at the end of
16 fiscal year 2011 shall revert to the general fund.

17 Section 3. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2010.