

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 425

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
LIMITING THE SALARY LEVEL OF CONSERVANCY AND IRRIGATION
DISTRICT EMPLOYEES TO THE SALARY LEVEL ESTABLISHED FOR THE
STATE ENGINEER; PROVIDING FOR THE CONTINUANCE OF EXISTING
EMPLOYMENT AGREEMENTS AND CONTRACTS.

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

SECTION 1. Section 73-9-14 NMSA 1978 (being Laws 1919,
Chapter 41, Section 12, as amended) is amended to read:

"73-9-14. BOARD OF DIRECTORS--POWERS AND DUTIES.--The
directors, having duly qualified, shall organize as a board,
elect a president from their number and appoint a secretary.
The board shall have power and it shall be ~~[their]~~ its duty to
adopt a seal, manage and conduct the affairs and business of
the district, make and execute all necessary contracts, employ

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underscored material = new
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1 such agents, attorneys, officers and employees as may be
2 required and prescribe their duties, establish equitable rules
3 and regulations for the distribution and use of water among the
4 owners of ~~[said]~~ the land and generally perform all ~~[such]~~ acts
5 ~~[as shall be]~~ necessary to ~~[fully]~~ carry out fully the purposes
6 of ~~[this act; which]~~ Chapter 73, Article 9 NMSA 1978. The
7 regulations, among other things, shall provide that no water
8 shall be delivered from the irrigation system of the district
9 for irrigation of any land while the taxes ~~[or tolls]~~ due
10 ~~[thereon]~~ on the land or from the owner ~~[thereof]~~ of the land
11 for district purposes levied or imposed under the provisions of
12 ~~[this act]~~ Chapter 73, Article 9 NMSA 1978 are in arrears for
13 more than twelve months. Provided, however, that in the event
14 ~~[such]~~ the local assessments on any land within the district
15 are more than twelve months in arrears, and the owner or tenant
16 ~~[thereof]~~ of the land shall pay or satisfactorily secure ~~[said]~~
17 the district for water assessments imposed for any current year
18 in advance of the actual delivery of water ~~[thereon]~~, then
19 ~~[said]~~ the board may deliver water during ~~[such]~~ that current
20 year upon ~~[said]~~ the lands. As soon as practicable after the
21 board ~~[shall have]~~ has organized, it shall employ a competent
22 hydraulic engineer to determine and report upon the water
23 supply available for the district ~~[which]~~. The report shall be
24 a full and complete record of all hydrographic data available
25 and relating to the stream ~~[streams]~~ or other sources of water

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1 supply from which water for the district is to be obtained.
2 The report shall contain an estimate of the average amount of
3 water available for each acre of land per year and shall show
4 approximately the probable amounts available for irrigation or
5 storage during each week of the year. The report, accompanied
6 by an examination fee of twenty-five dollars (\$25.00), shall be
7 submitted to the state engineer for [~~his~~] examination [~~and~~].
8 If [~~he shall find such~~] the state engineer finds the report to
9 be a full and complete record of the available hydrographic
10 data, that the calculations are correct and that there will be
11 water in the source [~~or sources~~] of supply sufficient to
12 [~~properly~~] irrigate properly the lands included within [~~such~~]
13 the district, [~~he~~] the state engineer shall so certify under
14 [~~his~~] the state engineer's hand and official seal. If the
15 report submitted is found to be insufficient or incorrect, the
16 state engineer shall return [~~the same~~] it for correction to the
17 directors of the district with a statement of [~~his~~] the state
18 engineer's objections. If [~~such~~] the report is not corrected
19 so as to meet with the approval of the state engineer or if,
20 from [~~such~~] the report and other available information, the
21 state engineer is of the opinion that there is not sufficient
22 water in the source [~~or sources~~] of supply to [~~properly~~]
23 irrigate properly the lands included within [~~said~~] the
24 district, [~~he~~] the state engineer shall disapprove [~~said~~] the
25 report.

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1 The board of directors [~~shall have~~] has the right to
2 appeal from the decision of the state engineer to the district
3 court of the district in which [~~such~~] the irrigation district
4 is located, where the sufficiency and accuracy of the report
5 and available water supply shall be determined. Until the
6 report is approved by the state engineer or the courts, no bond
7 issue shall be made as provided for in Section [~~15-(73-215) of~~
8 ~~this act~~] 73-9-17 NMSA 1978. A copy of [~~such~~] the report shall
9 be kept on file in the office of the state engineer and the
10 secretary of the irrigation district and shall be available for
11 examination by any person desiring to do so.

12 [~~Said~~] The board shall have the power, in addition to the
13 means, to supply water to [~~said~~] the district; to construct,
14 acquire or purchase [~~any and all~~] canals, ditches, reservoirs,
15 reservoir sites, water, water rights, rights of way or other
16 property necessary for the use of the district; [~~and~~] to
17 contract with any person, corporation or other irrigation
18 district for supplying water for [~~any or all of~~] the lands in
19 [~~said~~] the district; and [~~also~~] to construct drainage works
20 necessary to prevent or relieve the waterlogging of any lands
21 within the district. In case of the purchase of any property
22 by [~~said~~] the district, the bonds of the district [~~hereinafter~~]
23 provided for in Chapter 73, Article 9 NMSA 1978 may be used at
24 their par value in payment without previous offer of [~~such~~] the
25 bonds for sale. But no contract involving a consideration

1 exceeding ten thousand dollars (\$10,000) and no contract for
 2 the purchase, rental or delivery involving annual charges or
 3 payments exceeding fifteen thousand dollars (\$15,000) per
 4 [~~annum shall be~~] year is binding unless [~~such~~] the contract
 5 [~~shall be~~] is authorized and ratified in writing by not less
 6 than a majority of the qualified electors of [~~said~~] the
 7 district according to the number of votes cast at the last
 8 preceding district election; nor shall any contract involving
 9 payment in excess of twenty-five thousand dollars (\$25,000) in
 10 any one year be binding until [~~such~~] the contract [~~shall have~~]
 11 has been authorized and ratified at an election held in the
 12 manner provided for the issue of bonds.

13 The rules and regulations established by [~~said~~] the board
 14 shall be printed in convenient form as soon as [~~the same~~] they
 15 are adopted for distribution in the districts. All waters
 16 distributed shall be apportioned to each landowner pro rata to
 17 the lands assessed under [~~this act~~] Chapter 73, Article 9 NMSA
 18 1978 within [~~such~~] the district. The board of directors shall
 19 have power to lease or rent the use of water or contract for
 20 the delivery [~~thereof~~] of water to occupants of other lands
 21 within or without the [~~said~~] district at such prices and on
 22 such terms as they deem best; provided that the rental shall
 23 not be less than one and one-half times the amount of the
 24 district tax for which [~~said~~] the land would be liable if
 25 included in the district lands assessed under [~~this act~~;

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1 ~~provided~~] Chapter 73, Article 9 NMSA 1978. No vested or
2 prescriptive rights to the use of [~~such~~] the water shall attach
3 to [~~said~~] the land by virtue of [~~such~~] the lease or [~~such~~]
4 rental; provided [~~also~~] that any landowner in [~~said~~] the
5 district may, with the consent of the board of directors,
6 assign the right to the whole or any portion of the water [~~so~~]
7 apportioned to [~~him~~] the landowner for any one year where
8 practicable to any other bona fide landowner, but only in case
9 [~~such~~] the owner [~~shall have~~] has fully complied with the
10 provisions of [~~THIS ACT~~] Chapter 73, Article 9 NMSA 1978.

11 A board of directors shall not hire an employee or issue a
12 contract for employee services at a salary level that exceeds
13 the salary level of the state engineer as established pursuant
14 to Section 72-2-1 NMSA 1978."

15 SECTION 2. A new section of The Conservancy Act of New
16 Mexico is enacted to read:

17 "[NEW MATERIAL] DISTRICT EMPLOYEE SALARIES.--A district
18 shall not hire an employee or issue a contract for employee
19 services at a salary level that exceeds the salary level of the
20 state engineer as established pursuant to Section 72-2-1 NMSA
21 1978."

22 SECTION 3. APPLICABILITY.--The provisions of this act
23 apply to irrigation and conservancy district salary agreements
24 and employment contracts entered into or renewed on or after
25 July 1, 2021.

1 SECTION 4. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2021.

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