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HOUSE BILL 958

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY
MIGUEL P. GARCIA

AN ACT

RELATING TO MUNICIPALITIES; AMENDING AND ENACTING CERTAIN
SECTIONS OF THE NMSA 1978 TO PROHIBIT THE LOCATION OF
SUPPLEMENTAL WELLS BY CERTAIN MUNICIPALITIES IN THE
UNINCORPORATED AREAS OF CLASS A COUNTIES.

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

Section 1. A new section of the Municipal Code is enacted
to read:

"~~[NEW MATERIAL]~~ SUPPLEMENTAL WELLS PROHIBITED IN
UNINCORPORATED AREAS OF CLASS A COUNTIES.-- A municipality,
including those with a home-rule charter adopted under Article
10, Section 6 of the constitution of New Mexico, located in a
class A county and having a population of over two hundred
thousand at the last decennial census, is expressly denied the
authority and prohibited from locating a supplemental well in

Underscored material = new
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1 the unincorporated areas of the county in which it is located
2 for any purpose. "

3 Section 2. Section 3-27-2 NMSA 1978 (being Laws 1965,
4 Chapter 300, Section 14-26-2, as amended) is amended to read:

5 "3-27-2. POTABLE--METHODS OF ACQUISITION--CONDEMNATION--
6 CONVEYANCES AUTHORIZED--LAND FOR APPURTENANCES--PUBLIC AND
7 PRIVATE USE--COMPENSATION.--

8 A. Municipalities, within and without the municipal
9 boundary, may:

10 (1) acquire, contract for or condemn:

11 (a) springs;

12 (b) wells;

13 (c) water rights;

14 (d) other water supplies; and

15 (e) right-of-way or other necessary

16 ownership for the acquisition of water facilities; [~~and~~]

17 (2) acquire, maintain, contract for or condemn
18 for use as a municipal utility privately owned water facilities
19 used or to be used for the furnishing and supply of water to the
20 municipality or its inhabitants; and

21 (3) change the place of diversion of any water
22 right to any place selected by the municipality in order to make
23 [~~the~~] water available to the municipality unless the change is
24 prohibited by Section 1 of this 1997 act or Section 72-12-24
25 NMSA 1978.

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1 B. For the purposes stated in Section 3-27-3 NMSA
2 1978, a municipality may take water from any stream, gulch or
3 spring. If the taking of the water materially interferes with
4 or impairs the vested right of any person who resides upon the
5 creek, gulch or stream or does any milling or manufacturing on
6 the creek, gulch or stream, the municipality shall obtain the
7 consent of the person with the vested right or acquire the
8 vested right by condemnation and make full compensation or
9 satisfaction for all damages occasioned to the person.

10 C. Any person may lawfully convey to any
11 municipality any water, water right and ditch right or any
12 interest in any water, water right and ditch right held or
13 claimed by the grantor. No change or use of the:

- 14 (1) water;
 - 15 (2) water right;
 - 16 (3) place of diversion; or
 - 17 (4) purpose for which the water or water right
- 18 was originally acquired by the grantor, shall invalidate the
19 right of the municipality to use the water or water right.

20 D. Proceedings to obtain any condemnation authorized
21 in this section shall be in the manner provided by law."

22 Section 3. Section 72-12-24 NMSA 1978 (being Laws 1959,
23 Chapter 41, Section 3) is amended to read:

24 "72-12-24. SUPPLEMENTAL WELL. --

25 A. The owner of a water right may drill and use a

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1 supplemental well upon making application but prior to the
2 publication and hearing set out in Section [~~75-11-3 New Mexico~~
3 ~~Statutes Annotated, 1953 Compilation~~] 72-12-3 NMSA 1978 if:

4 (1) the supplemental well is drilled into the
5 same and only the same underground stream, channel, artesian
6 basin, reservoir or lake as the well being supplemented; [~~and~~]

7 (2) the supplemental well does not increase the
8 appropriation of water to an amount above the existing water
9 right; [~~and~~]

10 (3) an emergency situation exists in which the
11 delay caused by publication and hearing would result in crop
12 loss or other serious economic loss; and

13 (4) the state engineer, after a preliminary
14 investigation, finds that the supplemental well does not impair
15 existing water rights and grants him a permit authorizing the
16 drilling and use of the supplemental well prior to publication
17 and hearing.

18 B. If the preliminary investigation by the state
19 engineer causes him to reasonably believe that the drilling and
20 use of a supplemental well may impair existing rights, then no
21 permit shall be issued until after publication and hearing.

22 C. The state engineer shall not grant a permit for a
23 supplemental well to a municipality, including those with a
24 home-rule charter adopted pursuant to Article 10, Section 6 of
25 the constitution of New Mexico, located in a class A county and

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1 having a population of over two hundred thousand at the last
2 decennial census, if the supplemental well is to be drilled or
3 located in the unincorporated areas of the county in which the
4 municipality is located."

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State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 27, 1997

Mr. Speaker:

Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to
whom has been referred

HOUSE BILL 958

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Respectfully submitted,

Lynda M. Lovejoy, Chairwoman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Wallace

Absent: None

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 7, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 958

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Thomas P. Foy, Chairman

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 3 Against

Yes: 6

No: Alwin, Carpenter, Larranaga

Excused: King, Mallory, Rios, Sanchez

Absent: None

M \H0958

Underscored material = new
~~[bracketed material] = delete~~