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HOUSE BILL 29

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Larry A. Larranaga

AN ACT

RELATING TO WATER; EXTENDING THE TERM OF A LEASE; PROVIDING A FORTY-YEAR WATER USE PLANNING PERIOD TO A WATER USE LEASED BY MUNICIPALITIES, COUNTIES, STATE UNIVERSITIES AND PUBLIC UTILITIES.

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

Section 1. Section 72-6-3 NMSA 1978 (being Laws 1967, Chapter 100, Section 3) is amended to read:

"72-6-3. OWNER MAY LEASE USE OF WATER. --

A. Any owner may lease to any person all or any part of the water use due him under his water right, and the owner's water right shall not be affected by the lease of [~~such~~] the use. The use to which the owner is entitled under his right shall, during the term of the lease, be reduced by the amount of water so leased. Upon termination of [~~such~~] the

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1 lease, the water use and location of use subject to the lease
2 shall revert to the owner's original use and location of use.

3 B. The lease may be effective for immediate use of
4 water or may be effective for future use of the water covered
5 by the lease; however, the lease shall not be effective to
6 cumulate water from year to year or to substantially enlarge
7 the use of the water in such manner that it would injure other
8 water users. The lease shall not toll any forfeiture of water
9 rights for nonuse, and the owner shall not, by reason of the
10 lease, escape the forfeiture for nonuse prescribed by law;
11 provided, however, that the state engineer shall notify both
12 the owner and the lessee of declaration of nonuser as provided
13 in Sections [~~75-5-26 and 75-11-8 New Mexico Statutes~~
14 ~~Annotated, 1953 Compilation~~] 72-5-28 and 72-12-8 NMSA 1978.
15 The initial or any renewal term of a lease of water use shall
16 not exceed [~~ten~~] forty years.

17 C. A water use leased by municipalities, counties,
18 state universities and public utilities supplying water to
19 municipalities or counties shall be entitled to the protection
20 of the forty-year water use planning period as provided in
21 Section 72-1-9 NMSA 1978. "

1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 January 28, 1999

7
8 Mr. Speaker:

9
10 Your AGRICULTURE AND WATER RESOURCES COMMITTEE, to
11 whom has been referred

12
13 HOUSE BILL 29

14
15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, but that

17 HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE
18 SUBSTITUTE FOR HOUSE BILL 29

19
20 DO PASS, and thence referred to the ENERGY AND NATURAL
21 RESOURCES COMMITTEE.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HAGC/HB 29

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Respectfully submitted,

Joe M Stell, Chairman

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Wright

Absent: None

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HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 29

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO WATER; EXTENDING THE TERM OF A LEASE; PROVIDING A
FORTY-YEAR WATER USE PLANNING PERIOD TO A WATER USE LEASED BY
MUNICIPALITIES, COUNTIES, STATE UNIVERSITIES, NONPROFIT
COMMUNITY WATER SYSTEMS AND PUBLIC UTILITIES.

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

Section 1. Section 72-6-3 NMSA 1978 (being Laws 1967,
Chapter 100, Section 3) is amended to read:

"72-6-3. OWNER MAY LEASE USE OF WATER. --

A. Any owner may lease to any person all or any
part of the water use due him under his water right, and the
owner's water right shall not be affected by the lease of
[~~such~~] the use. The use to which the owner is entitled under
his right shall, during the [~~term~~] exercise of the lease, be
reduced by the amount of water so leased. Upon termination of
[~~such~~] the lease, the water use and location of use subject to
the lease shall revert to the owner's original use and
location of use.

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1 B. The lease may be effective for immediate use of
2 water or may be effective for future use of the water covered
3 by the lease; however, the lease shall not be effective to
4 cumulate water from year to year or to substantially enlarge
5 the use of the water in such manner that it would injure other
6 water users. The lease shall not toll any forfeiture of water
7 rights for nonuse, and the owner shall not, by reason of the
8 lease, escape the forfeiture for nonuse prescribed by law;
9 provided, however, that the state engineer shall notify both
10 the owner and the lessee of declaration of nonuser as provided
11 in Sections [~~75-5-26 and 75-11-8 New Mexico Statutes~~
~~Annotated, 1953 Compilation~~] 72-5-28 and 72-12-8 NMSA 1978.
12 The initial or any renewal term of a lease of water use shall
13 not exceed ten years.

14 C. A water use may be leased for forty years by
15 municipalities, counties, state universities, public utilities
16 supplying water to municipalities or counties and nonprofit
17 community water systems and shall be entitled to the
18 protection of the forty-year water use planning period as
19 provided in Section 72-1-9 NMSA 1978. "

20 Section 2. Section 72-1-9 NMSA 1978 (being Laws 1985,
21 Chapter 198, Section 1, as amended by Laws 1990, Chapter 11,
22 Section 1 and also by Laws 1990, Chapter 40, Section 1) is
23 amended to read:

24 "72-1-9. MUNICIPAL, COUNTY, NONPROFIT COMMUNITY WATER
25 SYSTEMS AND STATE UNIVERSITY WATER DEVELOPMENT PLANS--
PRESERVATION OF MUNICIPAL, COUNTY AND STATE UNIVERSITY WATER
SUPPLIES. --

1 A. It is recognized by the state of New Mexico that
 2 it promotes the public welfare and the conservation of water
 3 within the state for municipalities, counties, state
 4 universities, nonprofit community water systems and public
 5 utilities supplying water to municipalities or counties to plan
 6 for the reasonable development and use of water resources. The
 7 state further recognizes the state engineer's administrative
 8 policy of not allowing municipalities, counties and state
 9 universities to acquire and hold, unused, water rights in an
 10 amount greater than their reasonable needs within forty years and
 11 recognizes that this administrative policy was incorporated into
 12 law by Chapter 2 of Laws 1983.

12 B. Municipalities, counties, state universities,
 13 nonprofit community water systems and public utilities supplying
 14 water to municipalities or counties shall be allowed a water use
 15 planning period not to exceed forty years, and water rights for
 16 municipalities, counties, state universities, nonprofit community
 17 water systems and public utilities supplying water to such
 18 municipalities or counties shall be based upon a water
 19 development plan the implementation of which shall not exceed a
 20 forty-year period from the date of the application for an
 21 appropriation or a change of place or purpose of use pursuant to
 22 a water development plan or for preservation of a municipal,
 23 county or state university water supply for reasonably projected
 24 additional needs within forty years. "
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2 HAGC/HB 29

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4 FORTY- FOURTH LEGISLATURE
5 FIRST SESSION, 1999
6

7 February 10, 1999
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10 Mr. Speaker:

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12 Your ENERGY AND NATURAL RESOURCES COMMITTEE, to
13 whom has been referred

14 HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE
15 SUBSTITUTE FOR HOUSE BILL 29
16

17 has had it under consideration and reports same with
18 recommendation that it DO PASS, amended as follows:

19
20 1. On page 1, line 13, strike "NONPROFIT" and insert in
21 lieu thereof "MEMBER- OWNED".

22
23 2. On page 2, line 20, strike "nonprofit" and insert in
24 lieu thereof "member- owned".

25 3. On page 2, line 21, after "systems" insert "as

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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lessee".

4. On page 2, between lines 23 and 24, insert the following new section to read:

"Section 2. Section 72-6-5 NMSA 1978 (being Laws 1967, Chapter 100, Section 5) is amended to read:

"72-6-5. APPROVAL. -- The state engineer shall approve the application if the applicant has reasonably shown that his proposed use and location of use is a beneficial use and:

A. will not impair any existing right to a greater degree than such right is, or would be, impaired by the continued use and location of use by the owner; and

B. will not be contrary to the conservation of water within the state or detrimental to the public welfare of the state. "".

5. Renumber the succeeding section accordingly.

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6. On page 3, line 3, strike "NONPROFIT" and insert in lieu thereof "MEMBER- OWNED".

7. On page 3, line 10, strike "nonprofit" and insert in lieu thereof "member- owned".,

8. On page 3, line 20, strike "nonprofit" and insert in lieu thereof "member- owned".

9. On page 3, line 23, strike "nonprofit" and insert in lieu thereof "member- owned".

Respectfully submitted,

James Roger Madal ena, Chair man

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HENRC/HAGCS/HB 29

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4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

7 Date _____

9 The roll call vote was 6 For 0 Against

10 Yes: 6

11 Excused: Garcia, Kissner, Salazar, Vickers

12 Absent: None

14 126924.2

15 J: \99BillSWP\H0029

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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March 4, 1999

Mr. President:

Your CONSERVATION COMMITTEE, to whom has been referred
HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE
SUBSTITUTE FOR HOUSE BILL 29, as amended

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 2, line 23, after the period insert "A water
use deriving from an acequia or community ditch organized pursuant
to Chapter 73, Article 2 or 3 NMSA 1978, whether owned by a water
right owner under the acequia or community ditch or by the acequia
or community ditch may be leased for a term not to exceed ten
years. "

2. On page 3, line 14, after "municipalities," insert
"member-owned community water systems, "

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3. On page 3, line 16, strike "and", strike all of line 17 and strike line 18 up to the period.

4. On page 4, line 5, after "county" insert ", member-owned community water systems".

Respectfully submitted,

Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____

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HAGC/HB 29

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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SCONC/HAGC/HB 29

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Eisenstadt, Sanchez, Vernon, Rodarte

Absent: None

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