

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 163

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

AN ACT

RELATING TO WATER; ENACTING A NEW SECTION OF CHAPTER 72,
ARTICLE 12 NMSA 1978 AND A NEW SECTION OF CHAPTER 73, ARTICLE 1
NMSA 1978 TO PROVIDE CONDITIONS FOR WATER RIGHTS TRANSFERS OUT
OF AN ARTESIAN CONSERVANCY DISTRICT.

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

Section 1. A new section of Chapter 72, Article 12 NMSA
1978 is enacted to read:

"[NEW MATERIAL] ARTESIAN CONSERVANCY DISTRICTS--CHANGES IN
POINT OF DIVERSION OR PLACE OF USE.--

A. The state engineer shall not approve an
application for a change, including an emergency change, in
point of diversion or place of use of a ground water right from
within an artesian conservancy district organized pursuant to
Chapter 73, Article 1 NMSA 1978 to a point of diversion or

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underscored material = new
[bracketed material] = delete

1 place of use outside the boundaries of the district if the
2 applicant has not complied with the applicable requirement
3 adopted by the district pursuant to law.

4 B. The applicant for a change described in
5 Subsection A of this section shall submit with the application
6 to the state engineer documentary evidence provided by the
7 artesian conservancy district of the applicant's compliance
8 with any applicable requirement for the change adopted by the
9 district pursuant to law.

10 C. If an artesian conservancy district has not
11 adopted an applicable requirement, the applicant shall submit
12 to the state engineer along with the application an affidavit
13 provided by the district stating this fact.

14 D. If the artesian conservancy district fails to
15 make a decision within one hundred twenty days in response to
16 an applicant's request for approval pursuant to an applicable
17 requirement, the district shall be deemed to have approved the
18 applicant's request for approval and the state engineer shall
19 proceed on the application as if the applicant had complied
20 with any applicable artesian conservancy district requirement.

21 E. Water rights purchased and transferred by the
22 interstate stream commission are not subject to the
23 requirements of this section."

24 Section 2. A new section of Chapter 73, Article 1 NMSA
25 1978 is enacted to read:

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1 "[NEW MATERIAL] BOARD OF DIRECTORS--ADDITIONAL DUTIES--
2 APPROVAL OF CHANGES IN POINT OF DIVERSION OR PLACE OF USE OF
3 GROUND WATER RIGHTS.--

4 A. Pursuant to bylaws duly adopted by the district,
5 a district may require that a change in point of diversion or
6 place of use of a ground water right from within an artesian
7 conservancy district to a point of diversion or place of use
8 outside the boundaries of the district shall be subject to
9 approval by the directors of the district. The request for
10 director approval shall be in writing and delivered by
11 certified mail to the district. The directors may deny the
12 change only if they determine that the proposed change would be
13 detrimental to the district or its members. The directors may
14 require as a condition of approval that the owner of the
15 transferred water right be assessed as though the water right
16 remained appurtenant to the land as previously assessed for
17 levy and collection of fees due to the district. The directors
18 shall render a written decision setting forth the reasons for
19 their decision. The person proposing the change or a member of
20 the district may appeal the decision of the directors to the
21 district court of the county within which the district is
22 located within thirty days of receipt of notice of the decision
23 by the person proposing the change. The district court may set
24 aside, reverse or remand the decision of the directors if it
25 determines that the directors acted fraudulently, capriciously,

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1 arbitrarily or contrary to law.

2 B. Nothing in this section shall be construed as
3 authorizing changes in the point of diversion or place of use
4 of ground water rights not otherwise permitted by law.

5 C. Water rights purchased and transferred by the
6 interstate stream commission are not subject to the
7 requirements of this section."