

1 SENATE BILL 336

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Steven P. Neville

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10 AN ACT

11 RELATING TO THE COURTS; CREATING DISTRICT WATER COURTS;
12 PROVIDING FOR ADDITIONAL JUDGESHIPS IN THE FIRST, THIRD AND
13 ELEVENTH DISTRICT COURTS; PROVIDING FOR AN ADDITIONAL JUDGESHIP
14 IN A FURTHER JUDICIAL DISTRICT; MAKING APPROPRIATIONS.

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

17 SECTION 1. Section 34-6-4 NMSA 1978 (being Laws 1968,
18 Chapter 69, Section 7, as amended) is amended to read:

19 "34-6-4. JUDGES--FIRST JUDICIAL DISTRICT.--There shall be
20 [~~nine~~] ten district judges in the first judicial district."

21 SECTION 2. Section 34-6-6 NMSA 1978 (being Laws 1968,
22 Chapter 69, Section 9, as amended) is amended to read:

23 "34-6-6. JUDGES--THIRD JUDICIAL DISTRICT.--There shall be
24 [~~eight~~] nine district judges in the third judicial district."

25 SECTION 3. Section 34-6-14 NMSA 1978 (being Laws 1968,

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1 Chapter 69, Section 17, as amended) is amended to read:

2 "34-6-14. JUDGES--ELEVENTH JUDICIAL DISTRICT.--There
3 shall be [~~eight~~] nine district judges in the eleventh judicial
4 district. The judges of divisions one, three, four, six and
5 eight and the judge of the San Juan district water court shall
6 reside and maintain their principal offices in San Juan county.
7 The judges of divisions two, five and seven shall reside and
8 maintain their principal offices in McKinley county."

9 SECTION 4. Section 38-3-9 NMSA 1978 (being Laws 1985,
10 Chapter 91, Section 1) is amended to read:

11 "38-3-9. PEREMPTORY CHALLENGE TO A DISTRICT JUDGE.--

12 A. A party to an action or proceeding, civil or
13 criminal, including proceedings for indirect criminal contempt
14 arising out of oral or written publications, except actions or
15 proceedings for constructive and other indirect contempt or
16 direct contempt shall have the right to exercise a peremptory
17 challenge to the district judge before whom the action or
18 proceeding is to be tried and heard, whether [~~he~~] the judge be
19 the resident district judge or a district judge designated by
20 the resident district judge, except by consent of the parties
21 or their counsel. After the exercise of a peremptory
22 challenge, that district judge shall proceed no further. Each
23 party to an action or proceeding may excuse only one district
24 judge pursuant to the provisions of this statute. In all
25 actions brought under the [~~Workmen's~~] Workers' Compensation Act

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1 [~~(52-1-1 to 52-1-69 NMSA 1978)~~], the employer and the insurance
2 carrier of the employer shall be treated as one party when
3 exercising a peremptory challenge to the judge under this
4 statute. The rights created by this section are in addition to
5 any arising under Article 6 of the constitution of New Mexico.

6 B. The judges of the district water courts shall
7 not be subject to peremptory challenges pursuant to this
8 section when presiding over water cases."

9 SECTION 5. A new section of Chapter 34, Article 6 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] LEGISLATIVE INTENT.--It is the intent of
12 the legislature that district water courts be established in
13 all of the judicial districts of the state."

14 SECTION 6. A new section of Chapter 34, Article 6 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] DISTRICT WATER COURTS.--

17 A. The following district water courts shall be
18 established in each of the following judicial districts:

19 (1) the "northern Rio Grande district water
20 court" is established in the first judicial district;

21 (2) the "lower Rio Grande district water
22 court" is established in the third judicial district;

23 (3) the "San Juan district water court" is
24 established in the eleventh judicial district; and

25 (4) another district water court shall be

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1 established at the direction of the supreme court in a judicial
2 district with a substantial caseload of water cases where
3 another civil district judge is needed.

4 B. Each district water court shall be a civil court
5 that shall hear all cases relating to water in the judicial
6 district in which the district water court is located, as well
7 as other civil cases. Each district water court shall give
8 priority to water cases.

9 C. District water court judges shall be nominated,
10 appointed and elected in the same manner as other district
11 judges.

12 D. Upon taking office, a district water court judge
13 shall devote substantial time to the study of water law and
14 other water-related subjects, especially as that study relates
15 to the arid western regions of the United States. District
16 water court judges may confer and consult with other district
17 water court judges about issues of water law.

18 E. A district water court judge shall not permit ex
19 parte communications, but a district water court judge may hold
20 informal discussion and planning sessions that shall be open to
21 all parties, members of the public and government agencies,
22 with advance notice to the public.

23 F. A district water court judge's use of water,
24 ownership of water rights or interest in property shall not
25 require disqualification from water cases under Article 6,

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1 Section 18 of the constitution of New Mexico.

2 G. A district water court judge may request a
3 special master, a district water court judge from another
4 district or a judge appointed by the supreme court to hear
5 particular matters when the district water court judge might be
6 perceived to have a significant conflict of interest."

7 SECTION 7. TEMPORARY PROVISION--DISTRICT JUDGES--
8 APPOINTMENTS.--The additional district judgeships provided for
9 in this act shall be filled by appointment by the governor
10 pursuant to the provisions of Article 6 of the constitution of
11 New Mexico.

12 SECTION 8. APPROPRIATIONS.--

13 A. The following amounts are appropriated from the
14 general fund to the following agencies for expenditure in
15 fiscal year 2016 for the following purposes:

16 (1) three hundred fifty thousand dollars
17 (\$350,000) to the first judicial district court for salaries
18 and benefits and furniture, supplies and equipment for one
19 additional district judge and support staff;

20 (2) three hundred fifty thousand dollars
21 (\$350,000) to the third judicial district court for salaries
22 and benefits and furniture, supplies and equipment for one
23 additional district judge and support staff;

24 (3) two hundred fifty thousand dollars
25 (\$250,000) to the eleventh judicial district court for salaries

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1 and benefits and furniture, supplies and equipment for one
2 additional district judge and support staff; and
3 (4) three hundred fifty thousand dollars
4 (\$350,000) to the administrative office of the courts for
5 salaries and benefits and furniture, supplies and equipment for
6 the additional district judge and support staff established in
7 Paragraph (4) of Subsection A of Section 6 of this act.

8 B. Any unexpended or unencumbered balance remaining
9 at the end of fiscal year 2016 shall revert to the general
10 fund.

11 SECTION 9. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2015.