

HOUSE ENERGY, ENVIRONMENT AND  
NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE RULES AND ORDER OF BUSINESS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 319

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
PROVIDING FOR REMEDIATION OF THE CARLSBAD BRINE WELL; AMENDING  
THE POWERS AND DUTIES OF THE CARLSBAD BRINE WELL REMEDIATION  
AUTHORITY; ADMINISTRATIVELY ATTACHING THAT AUTHORITY TO THE  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT; AUTHORIZING  
THE USE OF EMINENT DOMAIN; PROVIDING FOR AN EARLIER DELAYED  
REPEAL DATE; DECLARING AN EMERGENCY.

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

SECTION 1. Section 75-11-1 NMSA 1978 (being Laws 2017,  
Chapter 11, Section 1 and Laws 2017, Chapter 118, Section 1) is  
amended to read:

"75-11-1. CARLSBAD BRINE WELL REMEDIATION [~~ADVISORY~~  
~~AUTHORITY--CREATED--MEMBERSHIP-- [ADMINISTRATION OF THE CARLSBAD~~  
~~BRINE WELL REMEDIATION]~~ POWERS AND DUTIES.--

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1           A. The "Carlsbad brine well remediation [~~advisory~~  
2 authority" is created [~~The authority is a governmental entity~~  
3 ~~of the state~~] and is administratively attached to the energy,  
4 minerals and natural resources department.

5           B. The membership of the board of directors of the  
6 authority shall consist of the following eight members:

7                   (1) the [~~mayor of the city of Carlsbad or the~~  
8 ~~mayor's~~] secretary of energy, minerals and natural resources or  
9 the secretary's designee, who shall serve as chair of the  
10 board;

11                   (2) the chair of the Eddy county board of  
12 county commissioners or the chair's designee;

13                   (3) the [~~secretary of energy, minerals and~~  
14 ~~natural resources or the secretary's~~] mayor of the city of  
15 Carlsbad or the mayor's designee;

16                   (4) the secretary of environment or the  
17 secretary's designee;

18                   (5) the secretary of transportation or the  
19 secretary's designee;

20                   (6) the manager of the Carlsbad irrigation  
21 district or the manager's designee;

22                   (7) the state engineer or the state engineer's  
23 designee; and

24                   (8) the attorney general or the attorney  
25 general's designee.

1           ~~[B.]~~ C. The ~~[advisory]~~ authority ~~[(1)]~~ shall  
 2     ~~[recommend policy for and advise the oil conservation division~~  
 3     ~~of the energy, minerals and natural resources department on~~  
 4     ~~the]~~ set policy and regulate, supervise and administer the  
 5     remediation of the Carlsbad brine well ~~[located at: Unit~~  
 6     Letter M (SW/4 of the SW/4) in Section 17, Township 22 South,  
 7     Range 27 East, NMPM; Eddy County, New Mexico; and (2) is  
 8     ~~granted all powers necessary and appropriate to provide advice~~  
 9     ~~to the division for a revenue source dedicated to the Carlsbad~~  
 10    ~~brine well remediation fund].~~

11           D. The authority may:

- 12                   (1) promulgate rules to carry out the  
 13     provisions of this section;
- 14                   (2) make and execute all contracts and other  
 15     instruments;
- 16                   (3) contract with the municipality or county  
 17     in fulfillment of its duties;
- 18                   (4) acquire, maintain or contract for  
 19     property; and
- 20                   (5) exercise the power of eminent domain over  
 21     lands adjacent to the Carlsbad brine well as provided by law  
 22     for the condemnation of private property for public use with  
 23     just compensation.

24           E. On or before November 15 of each year, the  
 25     authority shall report to the radioactive and hazardous

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1 materials interim committee and the legislative finance  
2 committee on the status of the remediation of the Carlsbad  
3 brine well and expenditures from the Carlsbad brine well  
4 remediation fund.

5 ~~[G.]~~ F. Nothing in this section shall be construed  
6 as a waiver or alteration of the immunity from liability  
7 granted pursuant to the Tort Claims Act or as a waiver of any  
8 other immunity or privilege under law.

9 G. For the purposes of this section:

10 (1) "authority" means the Carlsbad brine well  
11 remediation authority; and

12 (2) "Carlsbad brine well" means the brine well  
13 located at SW/4 of the SW/4 in Section 17, Township 22 South,  
14 Range 27 East, NMPM; Eddy County, New Mexico."

15 SECTION 2. Section 75-11-2 NMSA 1978 (being Laws 2017,  
16 Chapter 11, Section 2 and Laws 2017, Chapter 118, Section 2) is  
17 amended to read:

18 "75-11-2. CARLSBAD BRINE WELL REMEDIATION FUND--CREATED--  
19 PURPOSE--CONDITIONS.--

20 A. ~~[There is created]~~ The "Carlsbad brine well  
21 remediation fund" is created in the state treasury. The  
22 energy, minerals and natural resources department shall  
23 administer the fund. The fund shall be used by the ~~[oil~~  
24 ~~conservation division of the energy, minerals and natural~~  
25 ~~resources department]~~ Carlsbad brine well remediation authority

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1 to the extent that revenues are available to remediate the  
 2 Carlsbad brine well or to acquire property adjacent to the  
 3 Carlsbad brine well as required for its remediation.

4 B. Money in the fund may consist of federal grants,  
 5 appropriations, donations, earnings from investment of the fund  
 6 and other revenue that from time to time may accrue to the fund  
 7 from other sources for remediation of the Carlsbad brine well.

8 C. Money in the fund shall be subject to  
 9 appropriation by the legislature and shall not revert at the  
 10 end of any fiscal year.

11 D. Money in the fund shall be disbursed on warrants  
 12 signed by the secretary of finance and administration pursuant  
 13 to vouchers signed by the secretary of energy, minerals and  
 14 natural resources or the secretary's authorized  
 15 representative."

16 SECTION 3. Section 75-11-3 NMSA 1978 (being Laws 2017,  
 17 Chapter 11, Section 3 and Laws 2017, Chapter 118, Section 3) is  
 18 amended to read:

19 "75-11-3. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--  
 20 The Carlsbad brine well remediation [~~advisory~~] authority is  
 21 terminated on July 1, [2029] 2025 pursuant to the Sunset Act.  
 22 The [~~advisory~~] authority shall continue to operate according to  
 23 the provisions of [~~this act~~] Sections 75-11-1 and 75-11-2 NMSA  
 24 1978 until July 1, [2030] 2026. Effective July 1, [2030] 2026,  
 25 [~~this act is~~] Sections 75-11-1 and 75-11-2 NMSA 1978 are

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1 repealed."

2 SECTION 4. EMERGENCY.--It is necessary for the public  
3 peace, health and safety that this act take effect immediately.

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