

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE AGRICULTURE, ACEQUIAS AND WATER RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 137

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO WATER; ENACTING THE STRATEGIC WATER SUPPLY ACT;
CREATING THE STRATEGIC WATER SUPPLY PROGRAM; AUTHORIZING THE
DEPARTMENT OF ENVIRONMENT AND THE OFFICE OF THE STATE ENGINEER
TO ENTER INTO CONTRACTS AND AWARD GRANTS FOR PROJECTS INVOLVING
BRACKISH WATER THAT HAFc→~~REDUCE~~←HAFc HAFc→~~ENHANCE~~←HAFc THE
STATE'S HAFc→~~RELIANCE ON~~←HAFc FRESH WATER RESOURCES; CREATING
THE STRATEGIC WATER SUPPLY PROGRAM FUND; PROVIDING REQUIREMENTS

.231088.2AIC March 8, 2025 (8:55am)

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BEFORE A PERSON DRILLS WELLS OR RECOMPLETES EXISTING WELLS TO APPROPRIATE WATERS; MAKING HAFC→~~APPROPRIATIONS~~←HAFC HAFC→~~AN~~ ~~APPROPRIATION~~←HAFC .

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

SECTION 1. [~~NEW MATERIAL~~] SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Strategic Water Supply Act".

SECTION 2. [~~NEW MATERIAL~~] DEFINITIONS.--As used in the Strategic Water Supply Act:

A. "brackish water" means water that is sourced from an underground stream, channel, artesian basin, reservoir or lake, having reasonably ascertainable boundaries, that contains not less than one thousand parts per million of dissolved solids and is not produced water;

B. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas;

C. "public entity" means a county, municipality, political subdivision, state agency or state institution of higher education; and

D. "treated brackish water" means brackish water that has undergone a process to remove or eliminate contaminants to meet applicable standards for water quality established pursuant to the Water Quality Act by the water

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quality control commission.

SECTION 3. [NEW MATERIAL] STRATEGIC WATER SUPPLY PROGRAM.--

A. The "strategic water supply program" is created. Subject to the availability of funds and a project that meets all eligibility requirements, the department of environment and the office of the state engineer may each enter into contracts or award grants for eligible projects involving treated brackish water for the purposes of H AFC → reducing ← H AFC H AFC → enhancing ← H AFC the state's H AFC → reliance on ← H AFC fresh water resources.

B. A contract entered into pursuant to this section shall be in accordance with the Procurement Code, except that the contract duration shall not exceed twenty years in length, including extensions and renewals.

C. To be eligible for a strategic water supply program contract, a project shall:

(1) comply with all applicable state, federal, tribal and local governmental standards, permit requirements and other provisions of law Hf11 →, including public notice, public hearing processes and all other associated requirements related to public involvement, ← Hf11 to protect existing water rights, conservation of water within the state, public welfare, public health and the environment;

(2) furnish financial assurance, other than

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third party guarantees, to the department of environment in accordance with rules promulgated by the water quality control commission, running to the benefit of the state and with any forfeitures deposited in the state treasury in the strategic water supply program fund;

(3) clearly demonstrate how the project will advance state, tribal or local government economic development goals in accordance with the purposes of HAFC→reducing←HAFC HAFC→enhancing←HAFC the state's HAFC→reliance-on←HAFC fresh water resources; and

(4) submit a specific, actionable and measurable community benefits plan that includes a process for community engagement and is designed to provide broadly shared benefits to members of the public who are or may be impacted by the strategic water supply program contract.

D. To be eligible for a strategic water supply program grant, the grant recipient shall be a public entity or federally recognized Indian nation, tribe or pueblo

Hf11→located wholly or partially in New Mexico←Hf11 and the grant project shall:

(1) be approved by the state engineer as advancing the exploration, production or treatment of brackish water in New Mexico;

(2) comply with applicable state, federal, tribal and local governmental standards and permit requirements

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and other provisions of law Hf11→, including public notice, public hearing processes and all other associated requirements related to public involvement,←Hf11 to protect existing water rights, conservation of water within the state, public welfare, public health and the environment; and

(3) clearly demonstrate how the project will advance state, tribal or local government economic development goals in accordance with the purposes of HAFC→reducing←HAFC HAFC→enhancing←HAFC the state's HAFC→reliance on←HAFC fresh water resources.

E. The agency awarding a strategic water supply contract shall publish the community benefits plan to the agency's website.

F. When preparing a request for proposals pursuant to Subsection C of this section or a grant solicitation pursuant to Subsection D of this section, the agency shall:

- (1) do so in accordance with the State-Tribal Collaboration Act, where applicable; and
- (2) consult with the secretary of economic development.

G. The department of environment or the office of the state engineer shall notify the state investment council about new strategic water supply program contracts or grants and any opportunities for public input associated with the strategic water supply program within two business days of the

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date the agency publishes the new grant, contract or public input opportunity to the general public.

H. When evaluating contract or grant proposals for compliance with Subsection C or D of this section, the agency shall evaluate how the projects in the proposal will limit greenhouse gas emissions.

Hf11→I. In connection with any strategic water supply program contract or grant that is subject to the notice of intention filing requirements pursuant to Section 72-12-26 NMSA 1978, the office of the state engineer shall provide an opportunity for a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico, a person, a firm, a corporation or other entity to file an objection or protest through a process consistent with the provisions of Section 72-12-3 NMSA 1978 regarding a determination by the state engineer made pursuant to Section 72-12-26 NMSA 1978.←Hf11

SECTION 4. [NEW MATERIAL] STRATEGIC WATER SUPPLY PROGRAM FUND.--

A. The "strategic water supply program fund" is created as a nonreverting fund in the state treasury and shall be administered by the department of environment. The fund consists of distributions, appropriations, gifts, grants, donations, income from investment of the fund and fees collected pursuant to Section 70-13-6 NMSA 1978.

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B. Money in the fund is appropriated to the department of environment and the office of the state engineer for the purpose of administering the strategic water supply program pursuant to Section 3 of the Strategic Water Supply Act.

C. Expenditures from the fund shall be to the department of environment or the office of the state engineer by warrant of the secretary of finance and administration pursuant to vouchers signed by both the secretary of environment or the secretary's authorized representative and the state engineer or the state engineer's authorized representative.

SECTION 5. Section 72-12-26 NMSA 1978 (being Laws 1967, Chapter 86, Section 2) is amended to read:

"72-12-26. NOTICE OF DRILLING--DEPTH AND LOCATION.--Any person proposing to drill wells or recomplete existing wells to appropriate waters referred to in Section [~~1 of this act~~] 72-12-25 NMSA 1978 shall file a notice of intention to drill or recomplete with the office of the state engineer in such form as the state engineer shall prescribe and shall publish a notice, in a newspaper of general circulation in the county in which the proposed wells will be located once a week for three consecutive weeks, stating the location and the proposed depth of such wells, the purpose for which the water shall be used and an estimate of the volume of water to be used. [~~Said~~] The

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wells shall not be drilled or recompleted prior to [10] Hf11→~~ten~~←Hf11 Hf11→~~thirty~~←Hf11 days after the last publication of [such] the notice and until the state engineer has determined that the use of water stated in the notice will not impair existing water rights, be contrary to the conservation of water within the state or be detrimental to the public welfare of the state."

~~HAFC→SECTION 6. APPROPRIATIONS.--~~

~~A. Seventy-five million dollars (\$75,000,000) is appropriated from the general fund to the strategic water supply program fund for expenditure in fiscal year 2026 and subsequent fiscal years for the purposes of that fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.~~

~~B. Twenty-eight million seven hundred fifty thousand dollars (\$28,750,000) is appropriated from the general fund to the board of regents of the New Mexico institute of mining and technology for expenditure in fiscal years 2026 through 2028 for aquifer monitoring and improved ground water characterization. Any unexpended or unencumbered balance remaining at the end of fiscal year 2028 shall revert to the general fund.~~

~~C. Four million dollars (\$4,000,000) is appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal years~~

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~~2026 through 2028 for innovation, research, monitoring, support and development of technology associated with potential projects for a strategic water supply program contract or grant. Any unexpended or unencumbered balance remaining at the end of fiscal year 2028 shall revert to the general fund.~~ ←H AFC

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