

HOUSE AGRICULTURE, ACEQUIAS AND WATER RESOURCES  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 311

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

AN ACT

RELATING TO WATER; ENACTING THE RECLAIMED WATER ACT; PROVIDING  
A PROCESS FOR CREATION OF RECLAIMED WATER AUTHORITIES;  
PROVIDING POWERS AND DUTIES OF AN AUTHORITY; PROVIDING FOR THE  
USE, SALE, PROVISION AND CERTIFICATION OF RECLAIMED WATER.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--This act may be  
cited as the "Reclaimed Water Act".

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

A. "authority" means a reclaimed water authority  
established pursuant to the Reclaimed Water Act;

B. "board" means a reclaimed water authority's  
board of directors;

C. "certified reclaimed water" means reclaimed

1 water that is certified by the water quality control commission  
2 or the commission's delegate for a type or source of water to  
3 indicate the water has been treated to a sufficient quality  
4 that it is no longer regulated as wastewater;

5 D. "county" means a county of any classification;

6 E. "customer" means a person or entity that  
7 purchases reclaimed water;

8 F. "department" means the economic development  
9 department;

10 G. "jurisdiction" means the area:

11 (1) governed by a municipality or a county  
12 that has established an authority; and

13 (2) that is covered by the actions of an  
14 authority;

15 H. "municipality" means an incorporated city,  
16 village or town;

17 I. "participating member" means a customer,  
18 reclaimed water producer, reclaimed water wholesaler or retail  
19 water supplier that chooses to participate in work overseen by  
20 an authority;

21 J. "reclaimed water" means any type of water,  
22 regardless of the source and including wastewater that has been  
23 treated mechanically or chemically, that can be used once it  
24 meets water quality standards issued by the state;

25 K. "reclaimed water authority" means a newly

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1 created nonprofit organization authorized pursuant to the  
2 Reclaimed Water Act;

3 L. "reclaimed water producer" means an entity that  
4 operates a water treatment facility that produces or generates  
5 reclaimed water, including midstream operators, desalination  
6 plant operators and municipal wastewater treatment facilities;

7 M. "reclaimed water wholesaler" means an entity  
8 that transports or distributes reclaimed water to customers or  
9 suppliers; and

10 N. "retail water supplier" means an entity that  
11 provides retail water service, including a private water  
12 company, a public agency or a municipality or county.

13 SECTION 3. [NEW MATERIAL] RECLAIMED WATER AUTHORITY--  
14 AUTHORIZATION TO CREATE.--

15 A. In response to a request from a municipality or  
16 a county, the department may authorize a municipality or county  
17 to create a reclaimed water authority to work with communities  
18 in the authority's jurisdiction to promote the use of reclaimed  
19 water.

20 B. A county's or municipality's request pursuant to  
21 this section shall include:

22 (1) the name of the person submitting the  
23 request;

24 (2) the name of the county or municipality  
25 requesting authorization to create an authority;

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1 (3) the names and addresses of all persons who  
2 are proposed to serve on the authority's board of directors;

3 (4) the names and addresses of the persons who  
4 are proposed to serve as the authority's officers;

5 (5) the authority's proposed business plan;

6 (6) the proposed sources and volumes of  
7 reclaimed water that would be within the authority's  
8 jurisdiction; and

9 (7) the area that would be within the  
10 authority's jurisdiction.

11 C. A request may be denied if the requester fails  
12 to provide any of the information required pursuant to  
13 Subsection B of this section.

14 D. The department shall approve or deny a request  
15 within sixty days from the date the request is submitted to the  
16 department.

17 E. The department shall not approve more than ten  
18 requests to create an authority before July 1, 2026.

19 SECTION 4. [NEW MATERIAL] ORGANIZATION--BOARD OF  
20 DIRECTORS--APPOINTMENT.--

21 A. Once approved by the department, an authority  
22 may be organized as a nonprofit corporation in accordance with  
23 the Nonprofit Corporation Act and the Reclaimed Water Act. The  
24 authority shall file all documents required by the secretary of  
25 state and by state law in relation to the authority's

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1 organization as a nonprofit corporation and authority.

2 B. An authority shall be governed by a board of  
3 directors. A board shall consist of at least six members, five  
4 of whom are voting members, as follows:

5 (1) the secretary of economic development or  
6 the secretary's designee, who shall serve as an advisor to the  
7 board and not as a voting member; and

8 (2) the following voting members appointed by  
9 the mayor or governing body of the municipality or county in  
10 the authority's jurisdiction:

11 (a) one economic development  
12 professional with at least three years of experience;

13 (b) at least one professional who has at  
14 least three years of experience working for a reclaimed water  
15 producer;

16 (c) at least one professional who has at  
17 least three years of experience working for a reclaimed water  
18 wholesaler;

19 (d) one member who has at least three  
20 years of experience working with or for a water retailer; and

21 (e) at least one professional with at  
22 least three years of experience in environmental studies or  
23 environmental protection work.

24 C. Upon creation of an authority, three members  
25 shall be appointed to initial terms of two years and three

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1 members shall be appointed to initial terms of one year.  
2 Thereafter, members of the board shall be appointed to terms of  
3 two years. When a vacancy occurs in any of the voting member  
4 positions, the position shall be filled in accordance with the  
5 provisions of Subsection B of this section.

6 D. A board shall:

- 7 (1) appoint a chair;  
8 (2) elect other officers as the board deems  
9 necessary;  
10 (3) adopt bylaws for the board, in accordance  
11 with the provisions of the Nonprofit Corporation Act, to govern  
12 the conduct of the board in the performance of its duties; and  
13 (4) hire or appoint a president who shall be  
14 the chief administrative officer of the authority and be  
15 responsible for its operations.

16 SECTION 5. [NEW MATERIAL] AUTHORITY POWERS AND DUTIES.--

17 A. An authority shall have the powers conferred  
18 upon a domestic nonprofit corporation by the Nonprofit  
19 Corporation Act and, pursuant to the Reclaimed Water Act, the  
20 authority may:

- 21 (1) sue and be sued in the authority's  
22 corporate name;  
23 (2) seek and work with vendors, customers or  
24 participants who sell, give, purchase, take or provide funding;  
25 (3) apply for and obtain federal and state

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1 funding and loans;

2 (4) purchase, take, store, receive, acquire,  
3 own, hold, dispose of, use and otherwise deal in and with  
4 property, including intangible personal property, intellectual  
5 property, technological innovations and reclaimed or untreated  
6 water;

7 (5) operate and maintain lawfully permitted  
8 water treatment facilities, desalination plants, laboratories,  
9 water transportation equipment and vehicles and water storage  
10 equipment and facilities;

11 (6) develop and implement water quality  
12 management plans;

13 (7) oversee public health and safety programs  
14 applicable to participating members within the authority's  
15 jurisdiction;

16 (8) provide technical support and consultation  
17 services to industries, municipalities and counties regarding  
18 water treatment;

19 (9) sell, convey, pledge, exchange, transfer  
20 or otherwise dispose of the authority's assets and properties  
21 for consideration and upon terms and conditions the authority  
22 shall determine;

23 (10) incur liabilities or borrow money at  
24 rates of interest the authority may determine;

25 (11) issue and collect fees and assessments;

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1 (12) execute all contracts and other  
2 instruments the board deems necessary in the exercise of the  
3 powers and duties provided in the Reclaimed Water Act;

4 (13) invest and reinvest the authority's funds  
5 and receive and administer grants, contracts and private gifts;

6 (14) conduct activities and operations to  
7 exercise the powers provided in the Reclaimed Water Act;

8 (15) employ, set compensation for and  
9 prescribe duties of officers and employees as the authority  
10 deems necessary;

11 (16) enter into agreements with insurance  
12 carriers to insure against any loss in connection with the  
13 authority's operations;

14 (17) authorize retirement programs and other  
15 benefits for officers and employees of the board;

16 (18) engage in research and development  
17 activities to improve water and wastewater treatment  
18 technologies and processes;

19 (19) make grants to promote reclaimed water  
20 use;

21 (20) engage in community outreach and  
22 educational programs to raise awareness about water  
23 conservation, pollution prevention and the importance of  
24 environmental stewardship; and

25 (21) perform inspections of reclaimed water;

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1 inspect water quality; and assess fees for the administration  
2 costs of the authority or penalties and fines against reclaimed  
3 water producers, reclaimed water wholesalers, and retail water  
4 suppliers conducting business with a reclaimed water authority  
5 for violation of a reclaimed water authority's rules.

6 B. Pursuant to policies established by an  
7 authority's board of directors and as directed by the board's  
8 president, an authority shall:

9 (1) establish relationships with reclaimed  
10 water producers, reclaimed water wholesalers and customers  
11 throughout New Mexico to encourage the responsible use of  
12 reclaimed water;

13 (2) foster and promote uses for reclaimed  
14 water that support the development of new industries and the  
15 diversification of the state's economy;

16 (3) foster relationships among reclaimed water  
17 producers, reclaimed water wholesalers and customers;

18 (4) work for communities within the  
19 authority's jurisdiction to recruit businesses and jobs related  
20 to the treatment, desalination and purification of reclaimed  
21 water;

22 (5) develop policies and standards for the  
23 authority that promote the use of reclaimed water and  
24 frameworks for shared infrastructure projects for reclaimed  
25 water;

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1 (6) perform all actions required of an  
2 authority pursuant to the Reclaimed Water Act;

3 (7) provide quarterly reports of the  
4 authority's activities to the department and the department of  
5 environment; and

6 (8) adopt policies and procedures to allow  
7 reclaimed water producers, reclaimed water wholesalers, retail  
8 water suppliers and customers to join an authority's  
9 membership.

10 SECTION 6. [NEW MATERIAL] MEMBERSHIP OF AN AUTHORITY.--

11 Reclaimed water producers, reclaimed water wholesalers, retail  
12 water suppliers and customers who choose to become members of a  
13 reclaimed water authority shall be subject to the policies and  
14 procedures adopted by the reclaimed water authority.

15 SECTION 7. [NEW MATERIAL] INFRASTRUCTURE AND

16 FACILITIES.--Upon a majority vote of a board and an authority's  
17 participating members, the authority may:

18 A. adopt rules for the administration of the  
19 authority;

20 B. construct and operate facilities and  
21 infrastructure; and

22 C. contract with third parties to allow the  
23 authority or its contractors to take possession of and acquire,  
24 store, transport, sell or dispose of reclaimed water in  
25 accordance with applicable state law.

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1           SECTION 8.   [NEW MATERIAL] APPLICATION OF OTHER LAW.--

2           A.   A reclaimed water authority shall be subject to  
3 all applicable laws and rules governing:

4                   (1) water rights issued by the office of the  
5 state engineer;

6                   (2) transportation and handling of water; and

7                   (3) water quality, including rules issued by  
8 the energy, minerals and natural resources department and the  
9 department of environment.

10          B.   The use of reclaimed water by an authority shall  
11 not impair any existing water rights.

12          C.   An authority is separate and apart from the  
13 state and shall not be deemed an agency, public body or  
14 political subdivision of the state for purposes of application  
15 of law relating to personnel, gross receipts tax, disposition  
16 or acquisition of property and capital outlays.

17          D.   An authority and its board shall be subject to  
18 the Open Meetings Act and the Inspection of Public Records Act;  
19 provided, however, that information obtained by the authority  
20 or its board related to pricing may be designated and marked as  
21 confidential by the party that submits the information, and if  
22 the pricing information is designated and marked confidential,  
23 the pricing information shall not be subject to inspection  
24 pursuant to the Inspection of Public Records Act.

25          E.   An authority or a board and the authority's or

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1 board's officers, directors and employees shall be granted  
2 immunity from liability for any tort as provided in the Tort  
3 Claims Act and may enter into agreements with insurance  
4 carriers to insure against a loss in connection with the  
5 authority's operations even though the loss may be included  
6 among losses covered by the risk management fund of New Mexico.  
7 A director, the president or another officer shall not be  
8 personally liable for any damages resulting from:

- 9 (1) any negligent act or omission of an  
10 employee of the authority or board;
- 11 (2) any negligent act or omission of another  
12 director or officer of the authority or board; or
- 13 (3) any action taken as a director or officer  
14 or a failure to take any action as a director or officer unless  
15 the director or officer has breached or failed to perform the  
16 duties of the director's or officer's office and the breach or  
17 failure to perform constitutes willful misconduct or  
18 recklessness.

19 SECTION 9. [NEW MATERIAL] IDENTIFICATION OF RECLAIMED  
20 WATER MARKETS--RETAIL WATER SUPPLIERS--DUTIES.--

21 A. An authority shall identify:

- 22 (1) within the authority's jurisdiction:  
23 (a) potential uses for reclaimed water;  
24 and  
25 (b) potential customers for reclaimed

1 water service; and

2 (2) within a reasonable time from the date the  
3 authority is organized, potential sources of reclaimed water.

4 B. If a municipality or county has not established  
5 an authority, a retail water supplier that serves the area in  
6 which the municipality or community is located shall identify:

7 (1) within the supplier's service area:

8 (a) potential uses for reclaimed water;  
9 and

10 (b) potential customers for reclaimed  
11 water service; and

12 (2) potential sources of reclaimed water.

13 C. Reclaimed water producers and reclaimed water  
14 wholesalers may identify potential uses for reclaimed water and  
15 assist a retail water supplier in identifying potential  
16 customers for reclaimed water service within the supplier's  
17 service area. Information obtained pursuant to this subsection  
18 shall be disclosed to the department within thirty days of the  
19 discovery of the information.

20 D. Information obtained by an authority or a retail  
21 water supplier pursuant to this section shall be disclosed to  
22 the department within thirty days of the discovery of the  
23 information.

24 SECTION 10. [NEW MATERIAL] OVERSIGHT BY A RECLAIMED WATER  
25 AUTHORITY.--

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1           A. An authority shall help facilitate communication  
2 among customers, reclaimed water producers, reclaimed water  
3 wholesalers and retail water suppliers within the authority's  
4 jurisdiction.

5           B. An authority may:

6                   (1) assist with negotiation of commercial  
7 transactions among the parties listed in Subsection A of this  
8 section and may serve as a mediator in those negotiations;

9                   (2) upon request of a participating member,  
10 assist with establishing rates for reclaimed water with respect  
11 to transactions that occur within the authority's jurisdiction  
12 and in areas that are not overseen by the public regulation  
13 commission; and

14                   (3) with a majority vote from its board of  
15 directors and participating members, issue policies and  
16 procedures that allow for inspections of reclaimed water or  
17 create policies and procedures governing the handling, storage,  
18 transportation or disposal of reclaimed water.

19           SECTION 11. [NEW MATERIAL] DETERMINATIONS OF AVAILABILITY  
20 OF RECLAIMED WATER.--

21           A. Upon request of a customer, retail water  
22 supplier, reclaimed water producer or reclaimed water  
23 wholesaler, the department shall provide for the requester's  
24 inspection any information submitted to the department pursuant  
25 to Section 9 of the Reclaimed Water Act.

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1           B. A retail water supplier or customer that has  
2 identified a potential use or potential customer pursuant to  
3 Section 9 of the Reclaimed Water Act may request that the  
4 authority help facilitate an agreement for reclaimed water  
5 supply.

6           C. A reclaimed water producer or reclaimed water  
7 wholesaler that, pursuant to Section 9 of the Reclaimed Water  
8 Act, has identified a potential use or potential customer that  
9 is within the service territory or jurisdiction of a retail  
10 water supplier or customer may, in writing, request a retail  
11 water supplier or customer to enter into an agreement to  
12 provide reclaimed water to the potential customer. If the  
13 retail water supplier or customer has not responded to the  
14 request to enter into an agreement within thirty days, the  
15 reclaimed water producer or reclaimed water wholesaler may  
16 request that the authority assist with facilitating an  
17 agreement.

18           D. An authority shall post and update at least  
19 quarterly a list of retail water suppliers, customers,  
20 reclaimed water producers and reclaimed water wholesalers  
21 within the authority's jurisdiction that have expressed  
22 interest in providing or using reclaimed water.

23           SECTION 12. [NEW MATERIAL] AGREEMENTS TO PROVIDE  
24 RECLAIMED WATER.--

25           A. A retail water supplier that receives a request

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1 from a customer pursuant to Subsection C of Section 11 of the  
2 Reclaimed Water Act shall enter into an agreement to provide  
3 reclaimed water if it is available or can be made available to  
4 the supplier for sale to the customer; provided, however, that  
5 the supplier may delegate this obligation to a reclaimed water  
6 producer or a reclaimed water wholesaler in a written agreement  
7 between the supplier and the producer or wholesaler.

8 B. If a reclaimed water producer or a reclaimed  
9 water wholesaler provides a customer of a retail water supplier  
10 with a written statement that the producer or wholesaler is  
11 able to and will provide reclaimed water to the retailer, the  
12 retail water supplier shall, within one hundred twenty days  
13 from the date on which the retail water supplier receives the  
14 written statement from the customer by certified mail, return  
15 receipt requested, submit a written offer to the customer that  
16 includes rates and conditions pursuant to Subsection C of  
17 Section 13 of the Reclaimed Water Act.

18 C. If an authority makes a determination that there  
19 is available reclaimed water to serve a customer of a retail  
20 water supplier, the retail water supplier, not later than one  
21 hundred twenty days from the date on which the retail water  
22 supplier receives a copy of that determination from the  
23 customer by certified mail, return receipt requested, shall  
24 submit a written offer to the customer.

25 SECTION 13. [NEW MATERIAL] RECLAIMED WATER RATES.--

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1           A. The price charged per barrel of reclaimed water  
2 sold shall be reported to a designated official appointed by  
3 the authority in the jurisdiction in which it was sold or to  
4 the department, if there is no authority in the jurisdiction,  
5 within sixty days following the sale. The report shall be made  
6 using a form approved by the authority or the department.

7           B. The rates and conditions for reclaimed water  
8 service shall be established by contract between a retail water  
9 supplier and its customer.

10           C. A contract executed as provided in Subsection B  
11 of this section shall include:

- 12                   (1) the source of the reclaimed water;  
13                   (2) treatment and transportation costs for the  
14 water;  
15                   (3) the method of conveying the reclaimed  
16 water;  
17                   (4) a schedule for delivery of the reclaimed  
18 water;  
19                   (5) the terms of service;  
20                   (6) the rate for the reclaimed water,  
21 including the per-unit cost for that water; and  
22                   (7) the costs necessary to provide service and  
23 the basis for determining those costs.

24           D. This section does not apply to reclaimed water  
25 services or reclaimed water service rates established before

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1 July 31, 2025 or any amendments to those rates for the duration  
2 of the contract pursuant to which those rates were established.

3 SECTION 14. [NEW MATERIAL] RECLAIMED WATER RATES--  
4 SUPPLIERS REGULATED BY THE PUBLIC REGULATION COMMISSION.--

5 A. This section applies only to a retail water  
6 supplier that is regulated by the public regulation commission.

7 B. A regulated water utility may request the public  
8 regulation commission to establish the rate or rates for the  
9 delivery of reclaimed water, with the objective of providing,  
10 where practicable, a reasonable economic incentive for a  
11 customer to purchase reclaimed water in place of other water  
12 sources.

13 C. When setting rates in accordance with Subsection  
14 B of this section, the public regulation commission shall set  
15 rates with primary consideration given to enabling retail water  
16 suppliers to promote the sale of reclaimed water in a manner  
17 that allows for reclaimed water activities to increase within  
18 the state.

19 SECTION 15. [NEW MATERIAL] CERTIFIED RECLAIMED WATER.--

20 A. There shall be no requirement that reclaimed  
21 water be certified.

22 B. Any person may submit a request to the water  
23 quality control commission to adopt standards and procedures  
24 for the certification of reclaimed water.

25 C. Upon receipt of a request provided for in

1 Subsection B of this section, following an opportunity for  
2 notice and hearing, the water quality control commission shall  
3 issue standards and procedures for the certification of  
4 reclaimed water. The standards and procedures shall ensure  
5 that certified reclaimed water is in sufficient condition,  
6 based on the use, to protect public health and the environment  
7 sufficiently so as to no longer require oversight or regulation  
8 necessary for wastewater or produced water.

9 D. When a batch of reclaimed water is shown to meet  
10 the standards established by the water quality control  
11 commission for certified reclaimed water, the reclaimed water  
12 shall no longer be subject to state laws and rules applicable  
13 to wastewater or produced water.

14 E. The duties of the water quality control  
15 commission described in this section are in addition to the  
16 powers and duties described in the Water Quality Act and shall  
17 apply to reclaimed water generally and not only circumstances  
18 that involve the discharge of water.

19 SECTION 16. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2025.