

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 312

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO WATER; PROVIDING FOR A STRATEGIC WATER RESERVE;
PROVIDING FOR ADDITIONAL POWERS AND DUTIES OF THE INTERSTATE
STREAM COMMISSION; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX
BONDS FOR THE ACQUISITION OF WATER RIGHTS FOR THE STRATEGIC
WATER RESERVE; MAKING AN APPROPRIATION.

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

Section 1. A new section of Chapter 72, Article 14 NMSA
1978 is enacted to read:

"NEW MATERIAL INTERSTATE STREAM COMMISSION-- ADDITIONAL
POWERS-- STRATEGIC WATER RESERVE. --

A. The interstate stream commission shall establish
a strategic water reserve and may purchase from willing sellers
or lease or receive through donation surface water rights to
comprise the reserve. The commission may also purchase or

1 lease from willing sellers or lessors or receive by donation
2 underground water rights for the strategic water reserve for
3 cessation of pumping or limited short-term stream augmentation.
4 At no time shall the use of water rights held by the strategic
5 water reserve result in an increase in net depletions in any
6 basin. The commission shall pay no more than the appraised
7 market value to purchase or lease water rights and storage
8 rights for the strategic water reserve. The commission may
9 accept money or grants from federal or other governmental
10 entities or other persons to purchase or lease water rights for
11 the strategic water reserve and to pay administrative costs.
12 The commission shall not acquire water rights that are served
13 by or owned by an acequia or community ditch for inclusion in
14 the strategic water reserve. The commission shall acquire only
15 water rights recognized by the state engineer to have
16 sufficient seniority and consistent, historic beneficial use to
17 effectively contribute to the purpose of the strategic water
18 reserve. The commission shall not acquire water rights for the
19 strategic water reserve by condemnation. Water rights in the
20 strategic water reserve shall not be subject to forfeiture
21 pursuant to Chapter 72 NMSA 1978. Water rights shall only be
22 acquired with the explicit approval of the commission.

23 B. Water rights in the strategic water reserve
24 shall be used to:

- 25 (1) assist the state in complying with

1 interstate stream compacts and court decrees, except where it
 2 would conflict with a special water users association
 3 established pursuant to Chapter 73, Article 10 NMSA 1978 or
 4 conflict with the Pecos river settlement or other state law; or

5 (2) assist the state and water users in
 6 complying with the federal Endangered Species Act of 1973 or
 7 other federal or state law as part of a collaboratively
 8 developed compliance program involving state and federal
 9 agencies and water users.

10 C. The interstate stream commission shall develop
 11 priorities for the acquisition of water rights for the
 12 strategic water reserve in consultation with the New Mexico
 13 interstate stream compact commissioners, the office of the
 14 state engineer and the attorney general's office.

15 D. The interstate stream commission may sell or
 16 lease water rights from the strategic water reserve at no less
 17 than the appraised market value only if the rights are no
 18 longer necessary for the purposes for which they were acquired
 19 for the reserve.

20 E. Water rights acquired for the strategic water
 21 reserve or water rights sold or leased from the reserve shall
 22 remain in their river reach or ground water basin of origin.

23 F. Transactions with members of an irrigation or
 24 conservancy district established pursuant to Chapter 73 NMSA
 25 1978 shall provide for the strategic water reserve to pay the

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1 annual assessment to the district that would accrue to the
2 district absent the transaction.

3 G. Cumulative impacts of the strategic water
4 reserve acquisitions and uses shall not adversely affect
5 existing water users of delivery systems.

6 H. The interstate stream commission shall adopt
7 rules consistent with the terms of this section."

8 Section 2. A new section of the Severance Tax Bonding Act
9 is enacted to read:

10 "[~~NEW MATERIAL~~] BONDING CAPACITY--AUTHORIZING ISSUANCE OF
11 SEVERANCE TAX BONDS FOR THE STRATEGIC WATER RESERVE. --

12 A. By January 15 of each year, the board of finance
13 division of the department of finance and administration shall
14 estimate the amount of bonding capacity available for severance
15 tax bonds to be authorized by the legislature. The division
16 shall authorize ten percent of the estimated bonding capacity
17 each year beginning in fiscal year 2005 and ending in fiscal
18 year 2025, and the legislature authorizes the state board of
19 finance to issue severance tax bonds in the annually deducted
20 amount for use by the interstate stream commission for the
21 acquisition and leasing of water rights and storage rights for
22 the strategic water reserve and its administrative costs.

23 B. The interstate stream commission shall certify
24 to the state board of finance the need for issuance of bonds
25 for acquisition of water rights for the strategic water

1 reserve. The state board of finance may issue and sell the
2 bonds in the same manner as other severance tax bonds in an
3 amount not to exceed the authorized amount provided for in this
4 section. If necessary, the state board of finance shall take
5 the appropriate steps to comply with the federal Internal
6 Revenue Code of 1986. Proceeds from the sale of the bonds are
7 appropriated to the interstate stream commission to acquire and
8 lease water and storage rights for the strategic water reserve
9 and its administrative costs.

10 C. Any unexpended balance from proceeds of
11 severance tax bonds issued for the strategic water reserve
12 shall revert to the severance tax bonding fund as of the first
13 day after the end of the tenth fiscal year following the fiscal
14 year in which the severance tax bonds were issued, after
15 reserving for unpaid costs and expenses covered by binding
16 written obligations to third parties."