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SENATE BILL 886

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO WATER; GRANTING AUTHORITY TO THE INTERSTATE STREAM
COMMISSION TO DEVELOP, CONSTRUCT, OPERATE AND MAINTAIN
INFRASTRUCTURE RELATED TO THE STRATEGIC WATER RESERVE;
RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN
LAWS 2003.

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

Section 1. Section 72-14-3.3 NMSA 1978 (being Laws 2005,
Chapter 175, Section 1 and Laws 2005, Chapter 182, Section 1)
is amended to read:

"72-14-3.3. INTERSTATE STREAM COMMISSION--ADDITIONAL
POWERS--STRATEGIC WATER RESERVE.--

A. The interstate stream commission shall establish
a strategic water reserve and may purchase or lease from
willing sellers or lessors or receive through donation surface
.166302.2

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1 water or water rights or storage rights to compose the reserve.
2 The commission may also purchase or lease from willing sellers
3 or lessors or receive by donation underground water or water
4 rights for the strategic water reserve for cessation of pumping
5 or limited short-term stream augmentation. At no time shall
6 the use of water or water rights held by the strategic water
7 reserve result in an increase in net depletions in any basin.
8 The commission shall pay no more than the appraised market
9 value to purchase or lease water or water rights and storage
10 rights for the strategic water reserve. The commission may
11 accept money or grants from federal or other governmental
12 entities or other persons to purchase or lease water or water
13 rights for the strategic water reserve [~~and~~], to pay
14 administrative costs and to develop, construct, operate and
15 maintain related infrastructure. The commission shall not
16 acquire water or water rights that are served by or owned by an
17 acequia or community ditch established pursuant to Chapter 73,
18 Articles 2 and 3 NMSA 1978 for inclusion in the strategic water
19 reserve. The commission shall not acquire water or water
20 rights that are served by an irrigation district established
21 pursuant to Chapter 73, Article 10 NMSA 1978, except through
22 contractual arrangement with the district board of directors or
23 as a special water users association established pursuant to
24 Chapter 73, Article 10 NMSA 1978, but nothing in this section
25 shall be construed to authorize the interstate stream

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1 commission to acquire water rights contrary to Section 72-1-2.4
2 NMSA 1978. The commission shall acquire only water rights that
3 have sufficient seniority and consistent, historic beneficial
4 use to effectively contribute to the purpose of the strategic
5 water reserve. The commission shall not acquire water or water
6 rights for the strategic water reserve by condemnation. Water
7 in the strategic water reserve shall not be subject to
8 forfeiture pursuant to Chapter 72 NMSA 1978. Water or water
9 rights shall only be acquired with the explicit approval of the
10 commission.

11 B. Water and water rights in the strategic water
12 reserve shall be used to:

13 (1) assist the state in complying with
14 interstate stream compacts and court decrees; or

15 (2) assist the state and water users in water
16 management efforts for the benefit of threatened or endangered
17 species or in a program intended to avoid additional listings
18 of species. Management of water pursuant to this subsection
19 shall be done in conjunction with collaborative programs or
20 processes where they exist. Use of the strategic water reserve
21 pursuant to this paragraph shall be limited to aquatic or
22 obligate riparian species.

23 C. The interstate stream commission shall develop
24 river reach or ground water basin priorities for the
25 acquisition of water or water rights and storage rights for the

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1 strategic water reserve in consultation with the New Mexico
2 interstate stream compact commissioners, the office of the
3 state engineer and the attorney general's office. For each
4 river reach or ground water basin, additional prioritization
5 shall be developed in coordination with the governing bodies of
6 the following organizations within the affected river reach or
7 ground water basin:

- 8 (1) Indian nations, tribes and pueblos;
- 9 (2) boards of county commissioners;
- 10 (3) municipalities;
- 11 (4) special districts established pursuant to
12 Chapter 73 NMSA 1978;
- 13 (5) soil and water conservation districts;
- 14 (6) water authorities; and
- 15 (7) water planning regions.

16 D. Nothing in this section shall modify or repeal
17 any authority currently vested in any organization described in
18 [~~this subsection~~] Subsection C of this section.

19 [~~D.~~] E. The interstate stream commission may sell
20 or lease water or water rights from the strategic water reserve
21 at no less than the appraised market value. The commission may
22 sell water rights only if the rights are no longer necessary
23 for the purposes for which they were acquired for the reserve;
24 provided that water rights in the reserve shall not be sold to
25 the United States. Pursuant to a sale of water rights from the

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1 strategic water reserve by the interstate stream commission,
2 the commission shall first make the offer of sale for the
3 original purpose of use. Proceeds of any sale are appropriated
4 to the office of the state engineer to adjudicate water rights.
5 Proceeds of any leases are appropriated to the interstate
6 stream commission for carrying out the purposes of the
7 strategic water reserve.

8 ~~[E.]~~ F. Water or water rights acquired for the
9 strategic water reserve or water or water rights sold or leased
10 from the reserve shall remain in their river reach or ground
11 water basin of origin.

12 ~~[F.]~~ G. Transactions with members of an irrigation
13 or conservancy district established pursuant to Chapter 73 NMSA
14 1978 shall provide for the strategic water reserve to pay the
15 annual assessment to the district that would accrue to the
16 district absent the transaction.

17 ~~[G.]~~ H. Cumulative impacts of the strategic water
18 reserve acquisitions and uses shall not adversely affect
19 existing water users or delivery systems.

20 ~~[H.]~~ I. The interstate stream commission shall
21 adopt rules consistent with the terms of this section,
22 including rules to ensure:

23 (1) that water and water rights acquired for
24 the strategic water reserve are used only for the purposes of
25 the reserve;

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(2) adequate public notice in each affected area for the acquisition or disposal of water rights; and

(3) that the office of the state engineer transfer procedures shall be followed.

~~[I.]~~ J. The interstate stream commission shall annually report to the appropriate committee of the legislature on the status of the strategic water reserve."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.