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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 water or water rights or storage rights to compose  
the reserve. The commission may also purchase or lease from  
willing sellers or lessors or receive by donation underground  
water or water rights for the strategic water reserve for  
cessation of pumping or limited short-term stream  
augmentation. At no time shall the use of water or water  
rights held by the strategic water reserve result in an  
increase in net depletions in any basin. The commission  
shall pay no more than the appraised market value to purchase

1 or lease water or water rights and storage rights for the  
2 strategic water reserve. The commission may accept money or  
3 grants from federal or other governmental entities or other  
4 persons to purchase or lease water or water rights for the  
5 strategic water reserve, to pay administrative costs and to  
6 develop, construct, operate and maintain infrastructure for  
7 the delivery of water to the location of need. The  
8 commission shall not acquire water or water rights that are  
9 served by or owned by an acequia or community ditch  
10 established pursuant to Chapter 73, Articles 2 and 3 NMSA  
11 1978 for inclusion in the strategic water reserve. The  
12 commission shall not acquire water or water rights that are  
13 served by an irrigation district established pursuant to  
14 Chapter 73, Article 10 NMSA 1978, except through contractual  
15 arrangement with the district board of directors or as a  
16 special water users association established pursuant to  
17 Chapter 73, Article 10 NMSA 1978, but nothing in this section  
18 shall be construed to authorize the interstate stream  
19 commission to acquire water rights contrary to  
20 Section 72-1-2.4 NMSA 1978. The commission shall acquire  
21 only water rights that have sufficient seniority and  
22 consistent, historic beneficial use to effectively contribute  
23 to the purpose of the strategic water reserve. The  
24 commission shall not acquire water or water rights for the  
25 strategic water reserve by condemnation and may only condemn

1 real property when that property is needed for infrastructure  
2 related to the conveyance of water. Water in the strategic  
3 water reserve shall not be subject to forfeiture pursuant to  
4 Chapter 72 NMSA 1978. Water or water rights shall only be  
5 acquired with the explicit approval of the commission.

6 B. Water and water rights in the strategic water  
7 reserve shall be used to:

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

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

18 C. The interstate stream commission shall develop  
19 river reach or ground water basin priorities for the  
20 acquisition of water or water rights and storage rights for  
21 the strategic water reserve in consultation with the New  
22 Mexico interstate stream compact commissioners, the office of  
23 the state engineer and the attorney general's office. For  
24 each river reach or ground water basin, additional  
25 prioritization shall be developed in coordination with the

1 governing bodies of the following organizations within the  
2 affected river reach or ground water basin:

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

11 D. Nothing in this section shall modify or repeal  
12 any authority currently vested in any organization described  
13 in Subsection C of this section.

14 E. The interstate stream commission may sell or  
15 lease water or water rights from the strategic water reserve  
16 at no less than the appraised market value. The commission  
17 may sell water rights only if the rights are no longer  
18 necessary for the purposes for which they were acquired for  
19 the reserve; provided that water rights in the reserve shall  
20 not be sold to the United States. Pursuant to a sale of  
21 water rights from the strategic water reserve by the  
22 interstate stream commission, the commission shall first make  
23 the offer of sale for the original purpose of use. Proceeds  
24 of any sale are appropriated to the office of the state  
25 engineer to adjudicate water rights. Proceeds of any leases

1 are appropriated to the interstate stream commission for  
2 carrying out the purposes of the strategic water reserve.

3 F. Water or water rights acquired for the  
4 strategic water reserve or water or water rights sold or  
5 leased from the reserve shall remain in their river reach or  
6 ground water basin of origin.

7 G. Transactions with members of an irrigation or  
8 conservancy district established pursuant to Chapter 73 NMSA  
9 1978 shall provide for the strategic water reserve to pay the  
10 annual assessment to the district that would accrue to the  
11 district absent the transaction.

12 H. Cumulative impacts of the strategic water  
13 reserve acquisitions and uses shall not adversely affect  
14 existing water users or delivery systems.

15 I. The interstate stream commission shall adopt  
16 rules consistent with the terms of this section, including  
17 rules to ensure:

18 (1) that water and water rights acquired for  
19 the strategic water reserve are used only for the purposes of  
20 the reserve;

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

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

25 J. The interstate stream commission shall annually SB 886  
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