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HOUSE BILL 291

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Yanira Gurrola and Kathleen Cates and Susan K. Herrera and
Eleanor Chávez

AN ACT

RELATING TO WATER; ALLOWING COUNTIES AND MUNICIPALITIES TO
REQUIRE WATER HARVESTING, RECYCLING AND REUSE; CREATING THE
WATER HARVESTING INCOME TAX CREDIT; CREATING STANDARDS FOR THE
DESIGN, CONSTRUCTION, INSTALLATION AND INSPECTION OF RAINWATER
AND STORM WATER CATCHMENT SYSTEMS; REQUIRING PERMITTING;
PROVIDING MATCHING FUNDS FOR RAINWATER AND STORM WATER
CATCHMENT SYSTEMS IN PUBLIC BUILDINGS AND FACILITIES.

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

SECTION 1. A new section of Chapter 3 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] WATER RESOURCES--COUNTY OR MUNICIPAL
REQUIREMENTS.--

A. For the purpose of preserving and protecting
water resources and to provide an assured water supply for the

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1 community, a county or municipality may adopt an ordinance to
2 require:

3 (1) water harvesting and storage; or

4 (2) water recycling and reuse.

5 B. The state engineer shall promulgate rules
6 necessary to carry out the provisions of this section.

7 C. Agricultural water users or agricultural water
8 rights owners are excluded from the provisions of Subsection A
9 of this section."

10 SECTION 2. A new section of the Income Tax Act is enacted
11 to read:

12 "[NEW MATERIAL] WATER HARVESTING INCOME TAX CREDIT.--

13 A. A taxpayer who is not a dependent of another
14 individual and who purchases and installs a permitted rainwater
15 or storm water catchment system after January 1, 2024 and
16 before December 31, 2034 in a residence or business in New
17 Mexico owned by that taxpayer may apply for a tax credit
18 against the taxpayer's tax liability imposed pursuant to the
19 Income Tax Act in an amount up to twenty percent of the
20 purchase and installation costs of the system. The tax credit
21 provided by this section may be referred to as the "water
22 harvesting income tax credit".

23 B. The purpose of the water harvesting income tax
24 credit is to provide an incentive for homeowners and businesses
25 to collect and store harvested water for future use.

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1 C. The water harvesting income tax credit shall not
2 exceed five thousand dollars (\$5,000). The department shall
3 allow a water harvesting income tax credit only for a water
4 harvesting system permitted by the regulation and licensing
5 department.

6 D. The department may allow a maximum annual
7 aggregate of two million dollars (\$2,000,000) in water
8 harvesting income tax credits per year. Applications for the
9 tax credit shall be considered in the order received by the
10 department.

11 E. A taxpayer may claim a water harvesting income
12 tax credit in the taxable year in which the taxpayer purchases
13 and installs a water harvesting system. To receive a water
14 harvesting income tax credit, a taxpayer shall apply to the
15 department on forms and in the manner prescribed by the
16 department. The application shall include a certification made
17 pursuant to Subsection J of this section.

18 F. If the requirements of this section have been
19 complied with, the department shall issue to the applicant a
20 document granting the tax credit allowed pursuant to this
21 section. The document shall be numbered for identification and
22 shall declare its date of issuance and the amount of the tax
23 credit allowed pursuant to this section. The document may be
24 submitted by the applicant with that taxpayer's income tax
25 return or may be sold, exchanged or otherwise transferred to

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1 another taxpayer. The parties to such a transaction shall
2 notify the department of the sale, exchange or transfer within
3 ten days of the sale, exchange or transfer.

4 G. That portion of a water harvesting income tax
5 credit that exceeds a taxpayer's tax liability in the taxable
6 year in which the tax credit is claimed may be carried forward
7 for a maximum of ten consecutive taxable years.

8 H. Married individuals filing separate returns for
9 a taxable year for which they could have filed a joint return
10 may each claim only one-half of the water harvesting income tax
11 credit that would have been claimed on a joint return.

12 I. A taxpayer may be allocated the right to claim a
13 water harvesting income tax credit in proportion to the
14 taxpayer's ownership interest if the taxpayer owns an interest
15 in a business entity that is taxed for federal income tax
16 purposes as a partnership and that business entity has met all
17 of the requirements to be eligible for the tax credit. The
18 total tax credit claimed by all members of the partnership or
19 limited liability company shall not exceed the allowable tax
20 credit pursuant to Subsection C of this section.

21 J. Prior to July 1, 2024, the regulation and
22 licensing department, in consultation with the state engineer,
23 shall adopt rules establishing procedures to provide
24 certification of water harvesting systems for the purposes of
25 obtaining a water harvesting income tax credit. The rules

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1 shall address technical specifications and requirements
2 relating to safety, code and standards compliance, minimum and
3 maximum system sizes, system applications and lists of eligible
4 components. The regulation and licensing department may modify
5 the specifications and requirements as necessary to maintain a
6 high level of system quality and performance.

7 K. A taxpayer allowed a water harvesting income tax
8 credit pursuant to this section shall report the amount of the
9 tax credit to the department in a manner required by the
10 department.

11 L. The department shall compile an annual report on
12 the water harvesting income tax credit pursuant to this section
13 that shall include the number of taxpayers approved by the
14 department to receive the tax credit, the aggregate amount of
15 tax credits approved and any other information necessary to
16 evaluate the effectiveness of the tax credit. Beginning in
17 2028 and every five years thereafter that the tax credit is in
18 effect, the department shall compile and present the annual
19 reports to the revenue stabilization and tax policy committee
20 and the legislative finance committee with an analysis of the
21 effectiveness and cost of the tax credit and whether the tax
22 credit is performing the purpose for which it was created.

23 M. As used in this section, "rainwater or storm
24 water catchment system" means a system that is designed to
25 provide for the collection of rainwater, storm water or

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1 untreated wastewater that has not come into contact with toilet
2 waste for use as potable or non-potable water."

3 SECTION 3. A new section of the Construction Industries
4 Licensing Act is enacted to read:

5 "[NEW MATERIAL] DIVISION--ADDITIONAL DUTIES--RAINWATER AND
6 STORM WATER CATCHMENT SYSTEMS--RULES.--

7 A. On or before January 1, 2025, the division
8 shall, with the approval of the commission and after public
9 hearing, adopt rules for:

10 (1) the design, construction, installation and
11 inspection of rainwater and storm water catchment systems that
12 conform with generally recognized national standards; and

13 (2) a person to become certified to design,
14 construct, install or inspect a rainwater or storm water
15 catchment system that conforms with generally recognized
16 national standards, including qualifying certification
17 programs.

18 B. Upon the adoption of the division's rules for
19 standards and certifications, the commission shall adopt rules:

20 (1) to require a permit prior to the
21 construction or installation of a rainwater or storm water
22 catchment system, including a reasonable fee for the issuance
23 of a permit; and

24 (2) establishing wage standards for a person
25 who designs, constructs, installs or inspects a rainwater or

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1 storm water catchment system.

2 C. The division shall:

3 (1) develop by rule a system to monitor the
4 use of rainwater and storm water catchment systems that are
5 permitted by the commission;

6 (2) prepare a report of best practices for the
7 operation of a rainwater and storm water catchment system and
8 post it on the division's website; and

9 (3) develop a list of entities that meet the
10 division's standards for providing certification to design,
11 construct, install or inspect a rainwater or storm water
12 catchment system and post it on the division's website.

13 D. As used in this section, "rainwater and storm
14 water catchment system" or "rainwater or storm water catchment
15 system" means a system that is designed to provide for the
16 collection of rainwater, storm water or untreated wastewater
17 that has not come into contact with toilet waste for use as
18 potable or non-potable water."

19 SECTION 4. A new section of the Environmental Improvement
20 Act is enacted to read:

21 "[NEW MATERIAL] MATCHING FUNDS--CONSTRUCTION AND
22 INSTALLATION OF RAINWATER AND STORM WATER CATCHMENT SYSTEMS.--

23 A. A person responsible for the management of a
24 publicly owned building or facility may apply to the department
25 for matching funds to construct or install a rainwater or storm

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1 water catchment system for the publicly owned building or
2 facility.

3 B. The department shall award matching funds, after
4 review and approval of the project by the department, on a
5 first-come, first-served basis.

6 C. Except for a project that has an established
7 labor agreement, a project awarded matching funds pursuant to
8 this section shall:

9 (1) pay wages to a person who designs,
10 constructs, installs or inspects a rainwater or storm water
11 catchment system in compliance with the wage standards
12 developed by the construction industries commission;

13 (2) use workers who are certified to design,
14 construct, install or inspect a rainwater or storm water
15 catchment system; and

16 (3) maintain a workforce with fifteen percent
17 registered with an apprenticeship program.

18 D. As used in this section, "rainwater or storm
19 water catchment system" means a system that is designed to
20 provide for the collection of rainwater, storm water or
21 untreated wastewater that has not come into contact with toilet
22 waste for use as potable or non-potable water."

23 SECTION 5. APPLICABILITY.--The provisions of Section 2 of
24 this act apply to taxable years beginning on or after January
25 1, 2024.

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