

AN ACT

RELATING TO WATER; EXTENDING THE TERM OF A LEASE; PROVIDING A FORTY-YEAR WATER USE PLANNING PERIOD TO A WATER USE LEASED BY MUNICIPALITIES, COUNTIES, STATE UNIVERSITIES, MEMBER-OWNED COMMUNITY WATER SYSTEMS AND PUBLIC UTILITIES.

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

Section 1. Section 72-6-3 NMSA 1978 (being Laws 1967, Chapter 100, Section 3) is amended to read:

"72-6-3. OWNER MAY LEASE USE OF WATER.--

A. Any owner may lease to any person all or any part of the water use due him under his water right, and the owner's water right shall not be affected by the lease of the use. The use to which the owner is entitled under his right shall, during the exercise of the lease, be reduced by the amount of water so leased. Upon termination of the lease, the water use and location of use subject to the lease shall revert to the owner's original use and location of use.

B. The lease may be effective for immediate use of water or may be effective for future use of the water covered by the lease; however, the lease shall not be effective to cumulate water from year to year or to substantially enlarge the use of the water in such manner that it would injure other water users. The lease shall not toll any forfeiture of water rights for nonuse, and the owner

shall not, by reason of the lease, escape the forfeiture for nonuse prescribed by law; provided, however, that the state engineer shall notify both the owner and the lessee of declaration of nonuser as provided in Sections 72-5-28 and 72-12-8 NMSA 1978. The initial or any renewal term of a lease of water use shall not exceed ten years.

C. A water use may be leased for forty years by municipalities, counties, state universities, public utilities supplying water to municipalities or counties and member-owned community water systems as lessee and shall be entitled to the protection of the forty-year water use planning period as provided in Section 72-1-9 NMSA 1978. A water use deriving from an acequia or community ditch organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978, whether owned by a water right owner under the acequia or community ditch or by the acequia or community ditch may be leased for a term not to exceed ten years."

Section 2. Section 72-6-5 NMSA 1978 (being Laws 1967, Chapter 100, Section 5) is amended to read:

"72-6-5. APPROVAL.--The state engineer shall approve the application if the applicant has reasonably shown that his proposed use and location of use is a beneficial use and:

A. will not impair any existing right to a greater degree than such right is, or would be, impaired by the continued use and location of use by the owner; and

B. will not be contrary to the conservation of water within the state or detrimental to the public welfare of the state."

Section 3. Section 72-1-9 NMSA 1978 (being Laws 1985, Chapter 198, Section 1, as amended by Laws 1990, Chapter 11, Section 1 and also by Laws 1990, Chapter 40, Section 1) is amended to read:

"72-1-9. MUNICIPAL, COUNTY, MEMBER-OWNED COMMUNITY WATER SYSTEMS AND STATE UNIVERSITY WATER DEVELOPMENT PLANS-- PRESERVATION OF MUNICIPAL, COUNTY AND STATE UNIVERSITY WATER SUPPLIES.--

A. It is recognized by the state of New Mexico that it promotes the public welfare and the conservation of water within the state for municipalities, counties, state universities, member-owned community water systems and public utilities supplying water to municipalities or counties to plan for the reasonable development and use of water resources. The state further recognizes the state engineer's administrative policy of not allowing municipalities, member-owned community water systems, counties and state universities to acquire and hold, unused, water rights in an amount greater than their reasonable needs within forty years.

B. Municipalities, counties, state universities, member-owned community water systems and public utilities

