

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 390

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Larry A. Larranaga

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING AND REPEALING CERTAIN SECTIONS OF THE ENVIRONMENTAL IMPROVEMENT ACT TO INCLUDE CAPACITY DEVELOPMENT AND ADMINISTRATIVE PENALTY AUTHORITY FOR DRINKING WATER SYSTEMS; ABOLISHING THE WATER SUPPLY FUND; DECLARING AN EMERGENCY.

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

Section 1. Section 74-1-7 NMSA 1978 (being Laws 1971, Chapter 277, Section 10, as amended) is amended to read:

"74-1-7. [ENVIRONMENT] DEPARTMENT--DUTIES. --

A. The department is responsible for environmental management and consumer protection programs. In that respect, the department shall maintain, develop and enforce regulations and standards in the following areas:

- (1) food protection;

underscored material = new
[bracketed material] = del ete

underscored material = new
[bracketed material] = del ete

1 (2) water supply, including [~~regulations~~
2 ~~establishing a reasonable system of fees for the provision of~~
3 ~~services by the department to public water supply systems, and~~
4 ~~water pollution as provided in the Water Quality Act~~]
5 implementing a capacity development program and establishing
6 administrative penalties for enforcement ;

7 (3) liquid waste, including exclusive
8 authority to implement and administer an inspection and
9 permitting program for on-site liquid waste systems;

10 (4) air quality management as provided in the
11 Air Quality Control Act;

12 (5) radiation control as provided in the
13 Radiation Protection Act;

14 (6) noise control;

15 (7) nuisance abatement;

16 (8) vector control;

17 (9) occupational health and safety as
18 provided in the Occupational Health and Safety Act;

19 (10) sanitation of public swimming pools and
20 public baths;

21 (11) plumbing, drainage, ventilation and
22 sanitation of public buildings in the interest of public
23 health;

24 (12) medical radiation, health and safety
25 certification and standards for radiologic technologists as

underscored material = new
[bracketed material] = delete

1 provided in the Medical Radiation Health and Safety Act;

2 (13) hazardous wastes and underground storage
3 tanks as provided in the Hazardous Waste Act; and

4 (14) solid waste as provided in the Solid
5 Waste Act.

6 B. Nothing in Subsection A of this section imposes
7 requirements for the approval of subdivision plats in addition
8 to those required elsewhere by law. Nothing in Subsection A
9 of this section preempts the authority of any political
10 subdivision to approve subdivision plats. "

11 Section 2. Section 74-1-8 NMSA 1978 (being Laws 1971,
12 Chapter 277, Section 11, as amended) is amended to read:

13 "74-1-8. [ENVIRONMENTAL IMPROVEMENT] BOARD-- DUTIES. --

14 A. The board is responsible for environmental
15 management and consumer protection. In that respect, the
16 board shall promulgate regulations and standards in the
17 following areas:

18 (1) food protection;

19 (2) water supply, including a capacity
20 development program and regulations authorizing imposition of
21 administrative penalties for enforcement and establishing a
22 reasonable system of fees for the provision of services by the
23 department to public water supply systems;

24 (3) liquid waste, including exclusive
25 authority to implement and administer an inspection and

underscored material = new
[bracketed material] = delete

1 permitting program for on-site liquid waste systems;

2 (4) air quality management as provided in the
3 Air Quality Control Act;

4 (5) radiation control as provided in the
5 Radiation Protection Act;

6 (6) noise control;

7 (7) nuisance abatement;

8 (8) vector control;

9 (9) occupational health and safety as
10 provided in the Occupational Health and Safety Act;

11 (10) sanitation of public swimming pools and
12 public baths;

13 (11) plumbing, drainage, ventilation and
14 sanitation of public buildings in the interest of public
15 health;

16 (12) medical radiation, health and safety
17 certification and standards for radiologic technologists as
18 provided in the Medical Radiation Health and Safety Act;

19 (13) hazardous wastes and underground storage
20 tanks as provided in the Hazardous Waste Act; and

21 (14) solid waste as provided in the Solid
22 Waste Act.

23 B. Nothing in Subsection A of this section imposes
24 requirements for the approval of subdivision plats in addition
25 to those required elsewhere by law. Nothing in Subsection A

underscored material = new
[bracketed material] = delete

1 of this section preempts the authority of any political
2 subdivision to approve subdivision plats.

3 C. ~~[Fees]~~ Administrative penalties collected
4 pursuant to Paragraph (2) of Subsection A of this section
5 shall be deposited in the water ~~[supply]~~ conservation fund. "

6 Section 3. Section 74-1-10 NMSA 1978 (being Laws 1973,
7 Chapter 340, Section 8, as amended) is amended to read:

8 "74-1-10. PENALTY. --

9 A. A person who violates any regulation of the
10 board is guilty of a petty misdemeanor. This section does not
11 apply to any regulation for which a criminal penalty is
12 otherwise provided by law.

13 B. Whenever, on the basis of any information, the
14 secretary determines that a person has violated, is violating
15 or threatens to violate any provision of Paragraph (2) or (3)
16 of Subsection A of Section 74-1-8 NMSA 1978 or any rule,
17 regulation or permit condition adopted and promulgated
18 thereunder, the secretary may:

19 (1) issue a compliance order stating with
20 reasonable specificity the nature of the violation or
21 threatened violation, requiring compliance immediately or
22 within a specified time period and assessing a civil penalty
23 for any past or current violation, or both; or

24 (2) commence a civil action in district court
25 for appropriate relief, including a temporary or permanent

underscored material = new
[bracketed material] = delete

1 injunction.

2 C. An order issued pursuant to Subsection B of
3 this section may include suspension or revocation of any
4 permit issued by the department. Any penalty assessed in the
5 order, except for residential on-site liquid waste systems,
6 shall not exceed one thousand dollars (\$1,000) for each
7 violation. Any penalty assessed in the order for a
8 residential on-site liquid waste system shall not exceed one
9 hundred dollars (\$100) for each violation. A penalty imposed
10 for violation of water supply system rules or permit
11 conditions shall not exceed one thousand dollars (\$1,000) per
12 violation per day. In assessing the penalty, the secretary
13 shall take into account the seriousness of the violation and
14 any good-faith efforts to comply with the applicable
15 requirements.

16 D. If a violator fails to take corrective actions
17 within the time specified in the compliance order, the
18 secretary shall:

19 (1) assess civil penalties of not more than
20 one thousand dollars (\$1,000) for each noncompliance with the
21 order; and

22 (2) suspend or revoke any permit issued to
23 the violator pursuant to Paragraph (3) of Subsection A of
24 Section 74-1-8 NMSA 1978.

25 E. An order issued pursuant to this section shall

underscored material = new
[bracketed material] = delete

1 become final unless, no later than thirty days after the order
2 is served, the person named in the order submits a written
3 request to the secretary for a hearing. Upon such a request,
4 the secretary shall conduct a hearing. The secretary shall
5 appoint an independent hearing officer to preside over the
6 hearing. The hearing officer shall make and preserve a
7 complete record of the proceedings and forward his
8 recommendation based on the record to the secretary, who shall
9 make the final decision.

10 F. In connection with any proceeding pursuant to
11 this section, the secretary may issue subpoenas for the
12 attendance and testimony of witnesses and the production of
13 relevant papers, books and documents and may adopt and
14 promulgate rules for discovery procedures.

15 G. Penalties collected pursuant to violations of
16 rules, regulations or permit conditions adopted pursuant to
17 Paragraph (3) of Subsection A of Section 74-1-8 NMSA 1978
18 shall be deposited in the state treasury to be credited to the
19 general fund.

20 H. Penalties collected pursuant to violations of
21 rules or permit conditions pursuant to Paragraph (2) of
22 Subsection A of Section 74-1-8 NMSA 1978 shall be deposited in
23 the state treasury to the credit of the water conservation
24 fund. "

25 Section 4. Section 74-1-12 NMSA 1978 (being Laws 1993,

underscored material = new
[bracketed material] = delete

1 Chapter 317, Section 1) is amended to read:

2 "74-1-12. COMPLIANCE WITH THE FEDERAL SAFE DRINKING
3 WATER ACT--PURPOSE.--The purpose of this [act] section and
4 Section 74-1-13 NMSA 1978 is to provide:

5 A. an incentive for conservation of water, the
6 state's most precious resource; and

7 B. funding for certain locations in the state to
8 comply with the federal Safe Drinking Water Act in which the
9 United States congress mandated that the United States
10 environmental protection agency establish drinking water
11 standards for [eighty-three] contaminants, require filtration
12 and disinfection for all public water supply systems, increase
13 enforcement authority, establish public notification
14 requirements, implement a lead ban and [add drinking water
15 standards for twenty-five contaminants every three years]
16 implement a capacity development program for existing and
17 newly created water systems. "

18 Section 5. TEMPORARY PROVISION.--On the effective date
19 of this act, the balance in the water supply fund is
20 transferred to the water conservation fund.

21 Section 6. REPEAL. Section 74-1-8.3 NMSA 1978 (being
22 Laws 1993, Chapter 100, Section 6) is repealed.

23 Section 7. EMERGENCY.--It is necessary for the public
24 peace, health and safety that this act take effect
25 immediately.

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3
4
5

6 February 8, 1999
7

8 Mr. Speaker:
9

10 Your ENERGY AND NATURAL RESOURCES COMMITTEE, to
11 whom has been referred
12

13 HOUSE BILL 390
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,
19
20
21

22 _____
23 James Roger Madalena, Chair man
24
25

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Pi craux, Sal azar

Absent: None

J: \99BillSWP\h0390

underscored material = new
~~[bracketed material] = del ete~~

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 FORTY- FOURTH LEGI SLATURE
2 FIRST SESSI ON, 1999

3
4 February 22, 1999

5
6
7 Mr. Speaker:

8
9 Your JUDI CIARY COMMI TTEE, to whom has been referred

10 HOUSE BILL 390

11
12 has had it under consideration and reports same with
13 recommendation that it DO PASS, amended as follows:

14
15 1. On page 2, line 5, after "program" insert:

16
17 "to assist water systems in acquiring and maintaining
18 technical, managerial and financial capacity in accordance
19 with Section 1420 of the federal Safe Drinking Water Act".

20 2. On page 3, line 20, after "program" insert:

21
22 "to assist water systems in acquiring and maintaining
23 technical, managerial and financial capacity in accordance
24 with Section 1420 of the federal Safe Drinking Water Act".

25 3. On page 3, line 21, after "enforcement" insert a

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 390

Page 15

semicolon and strike the remainder of the line in its
entirety and strike line 22 and line 23 in its entirety.

4. On page 6, line 10, strike "water supply system
rules" and insert in lieu thereof "drinking water
regulations 20 NMAC 7.1".

5. On page 7, line 21, strike "rules" and insert in
lieu thereof "drinking water regulations 20 NMAC 7.1".

Respectfully submitted,

R. David Pederson, Chairman

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HJC/HB 390

Page 16

4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 9 For 0 Against

11 Yes: 9

12 Excused: Luna, Mallory, Sanchez

13 Absent: None

15 127319.2

16 J:\99BillsWP\h0390

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 390

Page 17

2

3

4

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

5

6

7

March 4, 1999

8

9

Mr. President:

10

Your **CONSERVATION COMMITTEE**, to whom has been referred

11

12

HOUSE BILL 390, as amended

13

14

has had it under consideration and reports same with
recommendation that it **DO PASS**, and thence referred to the
JUDICIARY COMMITTEE.

15

16

17

Respectfully submitted,

18

19

20

21

22

23

Fernando R. Macias, Chairman

24

25

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 390

Page 18

2

Adopted _____ Not

3

Adopted _____

4

(Chief Clerk)

(Chief Clerk)

5

6

7

Date _____

8

9

The roll call vote was 6 For 0 Against

10

Yes: 6

11

No: None

12

Excused: Eisenstadt, Sanchez, Vernon, Rodarte

13

Absent: None

14

15

H0390C01

16

17

18

19

20

21

22

23

24

25

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 390

Page 19

2

3

4

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

5

6

7

March 15, 1999

8

9

Mr. President:

10

Your JUDICIARY COMMITTEE, to whom has been referred

11

12

HOUSE BILL 390, as amended

13

14

has had it under consideration and reports same with
recommendation that it DO PASS.

15

16

Respectfully submitted,

17

18

19

20

21

22

Michael S. Sanchez, Chairman

23

24

25

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 390

Page 20

2 Adopted _____ Not

3 Adopted _____

4 (Chief Clerk)

(Chief Clerk)

5

6

7

8

Date _____

9

10

The roll call vote was 6 For 0 Against

11

Yes: 6

12

No: None

13

Excused: Aragon, Davis

14

Absent: None

15

16

H0390JU1

17

18

19

20

21

22

23

24

25

underscored material = new
[bracketed material] = delete