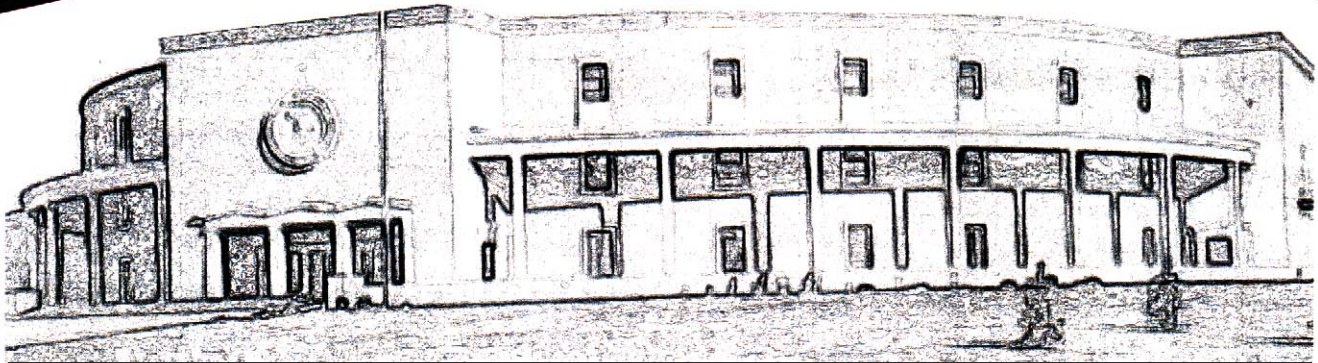


LEGISLEADER



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The *Legisleader* is the official legislative newsletter of the New Mexico Farm and Livestock Bureau...the state's largest and oldest agricultural organization. *Farm Bureau....since 1917 a leader in New Mexico!*

2007 Legislative Session Concludes

The New Mexico Legislative session adjourned on Saturday, March 17th. Any legislation not acted on by the Governor by April 6th will be pocket vetoed. June 15th is the effective date for legislation to go into law, except for legislation with a different specific date or legislation carrying an emergency clause. Overall, the House of Representatives introduced a total of 1564 bills, with 37 of them sent to the governor. The Senate introduced a total of 1418 bills with 17 of them sent to the governor.

Eminent Domain

SB 401, introduced by Senator Steve Neville and **HB 393**, introduced by Representative Peter Wirth, were derived as a result of the Governor's Task Force on

Eminent Domain. The Urban Development Law and the Municipal Redevelopment Code are amended to eliminate the authorization to use eminent domain powers.

A conference committee was assembled with concurrence from both Houses for the following amendments: municipalities are allowed to acquire property by eminent domain for the purpose of public use including: laying out, opening and widening streets, alleys and highways; or constructing, maintaining and operating storm drains or garbage and refuse disposal areas. A municipality may acquire property for park purposes, cemeteries and mausoleums. Municipalities

may also exercise condemnation to correct obsolete or impractical planning and platting of subdivisions. That power would apply only to property that was platted prior to 1971, has remained vacant and unimproved, and threatens the health and safety of persons or property due to erosion, flooding and inadequate drainage. **Both houses adopted the conference committee report and the legislation is now awaiting the Governor's signature.**

SJR 3 Amends Article 2, Sec. 20 of the state Constitution that limits the use of eminent domain for benefit of private commercial enterprises to public uses. Public uses

are defined as the possession, occupation or enjoyment of property by the public-at-large, by public agencies, utilities, pipeline common carriers, and those seeking to put water to beneficial use. Except for public uses, private property cannot be taken by private commercial enterprises for economic development or other private use unless there is consent from the owner, even though the public would benefit from a more profitable use of the property. **The joint resolution passed the Senate Floor and remains in the House Voters and Elections committee.**

SB 469/SB 659, introduced by Senator Michael Sanchez passed the House Health and Government Affairs committee. Time ran out and the bills were not heard by the House Judiciary committee. SB 469 limits a municipality's eminent domain powers within the municipality's boundary. SB 659 requires that a petition be completed by the majority of landowners in the contiguous territory that is proposed prior to annexation. **The bill was amended in the House Health and Government Affairs committee to existing condemnation powers.** However, it does not allow a municipality to exercise eminent domain for reservoirs, streams, water or water rights outside the municipal boundary.

SJM 54, introduced by Senator Linda Lopez, establishes agriculture districts in order

to study the need to protect agriculture through the use of conservation easements and limiting the eminent domain powers. **This legislation failed on the Senate floor.**

Water

Committee Substitute SB 461/HB443, introduced by Senator John Ryan and Representative Joseph Cervantes, allows a water right owner who can demonstrate to the Office of the State Engineer that water has been conserved to change the place, purpose and point of diversion of that conserved water. **CSSB 461 was signed by the Governor.**

HB 811, introduced by Representative Candy Spence Ezzell, provides that an improvement in the efficiency of the carriage or application of water within a district will not result in a reduction of the allowable diversion of water that is allowed under NMSA Section 73-1-27. An amendment was proposed to state that "no depletions" would occur. Representative Ezzell would not accept the amendment and **the bill was tabled in the House Energy committee.**

HB 579, Introduced by Representative Joseph Cervantes, requires that the state engineer must obtain written application from the majority of the water right owners in order to appoint a water master. However, the state engineer may appoint a

water master if it is for the purpose of public safety or interests of the water right owners. If this appointment is made by the state engineer, payment for the water master must come out of the state engineer's budget, not the county's. **This legislation is on the Governor's desk.**

HB 1278, introduced by Representative Ezzell, eliminates the requirement that the Interstate Stream Commission must purchase both land and water for the purpose of complying with the Pecos River Settlement. Under this legislation, the ISC can purchase only the water and is authorized to sell land and water rights it has acquired if it is determined that the land and water is no longer needed for compliance with the Pecos River Compact. This legislation is on the Governor's desk.

***HM 42**, introduced by Representative Mimi Stewart, requires that the State Engineer convene representative stakeholders to study the water development planning authority that should be allowed to municipalities, counties, school districts, state universities, member-owned community water systems, special water users associations and regulated water and electric public utilities. Representative Stewart amended the legislation to include agriculture representation at the request of the New Mexico Farm and Livestock Bureau and the Dairy Producers

of New Mexico. Findings are to be reported by August 1, 2007 to the appropriate Legislative interim committee. **The Memorial passed the House.**

Committee Substitute HB 13, introduced by Representative Peter Wirth, allows municipalities or counties to impose certain requirements to assure community water supplies. Representative Wirth amended the bill at the request of the New Mexico Farm and Livestock Bureau and Dairy Producers of New Mexico to exclude agricultural water users or water rights owners from the provisions. **CSHB13 is on the Governor's desk.**

HB 812, introduced by Representative Ezzell, grants additional powers to the board of directors of an artesian conservancy district by authorizing restrictions on inter-basin changes in point of diversion or place of use. The legislation passed the House. However, time ran out and **the legislation never made it to the Senate Judiciary committee.**

SB 693, introduced by Senator Sanchez, requires 20 or more parcels, any one of which is less than two acres of a proposed subdivision to obtain a permit from the State Engineer before obtaining final plat approval from the county. SB 693 passed the **Senate and opened for floor debate in the House, but failed to pass.**

Other Legislation

***SB 85**, introduced by Senator Mary Jane Garcia, limits potential tort liability of food manufacturers, producers and sellers by barring civil suits seeking damages for weight gain, obesity and related health problems as a result by "the long-term consumption of food." The legislation terms such claims as "frivolous" and seeks to encourage personal responsibility in food consumption. The legislation passed the Senate and was amended in the House Business and Industry committee, which struck Section 2, Purpose of Act, which encourages personal responsibility in food consumption, prevents frivolous lawsuits against manufacturers, producers, packers, distributors, carriers, holders, sellers, marketers and advertisers. **The bill did not go before the House Judiciary committee as assigned. (The NM Restaurant Assoc. will attempt to address this issue during the interim and agriculture will be included in the process.)**

***HM 52**, introduced by Representative Miguel Garcia, requests the Workers' Compensation Administration to create a task force to study the fiscal and policy implications of adding coverage for farm and ranch workers. The task force is to be made up of equal numbers of farm and ranch owners, laborers and their advocates, and employees of the Workers'

Compensation Administration. The legislation requires that the administration report to an "appropriate interim committee" its conclusions and recommendations by November 2007, and draft appropriate legislation in response to the conclusion. The bill went before the House Labor committee and was amended by Representative Ezzell to say that the workers' compensation law applies to employers of three or more workers excluding the owner and requests that the Director of the Department of Agriculture be added to the list of individuals and organizations who should receive a copy of the memorial.

This legislation passed the House with amendments presented by Representative Keith Gardner. The amendments are to include farm and ranch advocates and persons actively engaged in the insurance industry, representation on the task force. In addition, only a report to the appropriate interim committee is now required as opposed to legislation. HM 52 is a result of and substitute for HB 80 introduced by Representative Antonio Lujan that repealed the farm and ranch exemption from the Workers' Comp Act. **This legislation is now in effect.**

SB 324, introduced by the Senate Pro Tem, Ben Altimirano, pertains to minimum wage. After several amendments and conference committees, the final passage of the bill main-

tained all existing exemptions (agriculture) and added as an exemption “an employee engaged in the handling, drying, packing, packaging, processing, freezing or canning of any agricultural or horticultural commodity in its unmanufactured state.” It increases the minimum wage to \$6.50 an hour by January 1, 2008 and \$7.50 an hour by January 1, 2009. In terms of a pre-emptive clause, no city, county, home rule municipality or other subdivisions of the state shall adopt a minimum wage ordinance higher than what is set forth in the Act. This provision expires on January 1, 2010. However, any law or ordinance that is in effect as of January 1, 2007 is retained. **This legislation is awaiting the Governor’s signature.**

SB 845, introduced by Senator Vernon Asbill, amends the definition of “above-ground storage tank” in both the Hazardous Waste Act and the Ground Water Protection Act. The amendment excludes tanks used by a crop-dusting or crop-spraying service or pipes used to connect it, which exempts such tanks from registration, civil liability and all other provisions of the acts that are applicable to storage tanks. **The legislation is on the Governor’s desk.**

HB 256, introduced by Representative James Strickler, allows for a 50 percent gross receipts deduction beginning July 1, 2007 for above ground and below ground irrigation

systems. In the original bill, the word “produce” existed and was amended in the Senate Conservation committee to strike the word “produce” and insert “crop.” The legislation passed the Senate Conservation and Senate Finance committees and is on the Governor’s desk for signature.

HB 827, introduced by Representative Nunez, pertains to the Surface Owners Protection Act. The act establishes requirements and duties for oil and gas operators and surface land owners to comply and negotiate surface access agreements and compensation in the event property damage occurs due to oil and gas operations. The legislation requires oil and gas bonding for maintenance and production. This is applicable for agreements prior to July 1, 2007. **The Governor signed this bill.**

CSHB 309, introduced by Richard Vigil, creates a Land Wildlife Clean Energy (LWCE) board to solicit and approve projects funded by the legislature greater than \$2 million. The LWCE is administered by the New Mexico Energy, Minerals and Natural Resources Department. The LWCE board will look at conservation of land and wildlife, develop clean energy development, land and water acquisition. The Board is composed of representatives from energy conservation, farm production (member’s primary occupation), municipalities/

counties, wildlife management, livestock/dairy (member’s primary occupation) hunting/fishing, tribal lands, and acequias/land grant. The intent of the Act is to preserve working farms and ranches, assist land owners in conservation, protect habitat and provide public access for recreation. The capitol outlay appropriated \$2 million. However the bill itself was tabled in the Senate Finance committee. **We will more than likely see this legislation reintroduced in the 2008 Legislative session.**

*** Denotes Farm Bureau participation during the interim.**

Game and Fish Issues

***HB56**, combining hunting and fishing licenses and introduced by Representative Nunez, resolves issues with hunt drawings for public land deer hunts and the purchase of combination licenses. Creates a new license type, in essence, removing the deer license from the general hunting and fishing types (junior, senior and handicap) and will also create discounted deer licenses for junior, senior and handicapped hunters. **The Governor signed this bill on 3/13/07.**

***HB305**, additional deer license fee change, introduced by Representative Jim Trujillo, changes the fee language to make it track with the fee for all other deer license types. Any hunter allowed to purchase a

2nd deer license would pay the same fee as mandated by the license fees statute for a deer license. **This legislation is on the Governor's desk.**

***HB341 – SB286**, wildlife enhancement authorization packages, introduced by Representative Brian Moore, allows the Department to issue two packages of enhancement authorizations each license year for the taking of 1 each; elk, deer, oryx, ibex, and pronghorn antelope in each package, to raise funds for programs and projects to enhance, conserve and protect big game habitat. One to be auctioned, the other raffled. **This legislation is on the Governor's desk.**

HB509, exceptions to use of light while hunting, introduced by Representative Nora Espinoza, adds exceptions to include government employees acting in an official capacity, and persons permitted by the Department for such activities. Limits to persons possessing both a firearm and spotlight (same person), removes any weapon except firearm. **This legislation is on the Governor's desk.**

HB990, real property transfers tax credit, introduced by Representative Wirth, allows landowners donating land or easement for conservation purposes to offset taxes to a new limit of \$250,000 (was \$100,000), but also makes the tax credit transferable. **This legislation is on the Governor's desk.**

SB616, tax credit for livestock killed by wildlife, introduced by Senator Tim Jennings, states the department of game and fish shall determine whether the livestock was killed by a wildlife predator within 24 hours of the kill being reported by the owner and provide the owner with a certificate that meets the requirements of the taxation and revenue department and the department of game and fish. However, if a game and fish officer does not respond to the kill report within the required time limit, the livestock shall be deemed to have been killed by a wildlife predator and the owner shall sign and affirm the certificate required by the taxation and revenue department. Livestock is defined as domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in NM; "livestock" does not include canine or feline animals. **Received a Do Pass in the Senate Finance committee.**

SB544, trespass posting and notice, introduced by Senator Jennings, removes requirement to post private property. Property may be defined by fencing or orange paint placed on trees or posts. **Received a "Do Pass" from the Judiciary committee.**

SB1079, Release of wolves in NM, introduced by Senator Steve Komadina, defines a variety of actions by wolves to be illegal. Defines responsibilities of persons charged with oversight of wolf activities and defines criminal charges for lack of compliance. **Went to the Judiciary committee, Never heard.**

HM28, address threat by grey wolves, introduced by Representative Don Tripp, resolves that the Federal Government take steps to ensure protection of health, safety, and welfare of citizens of NM, and ensure that wolf program does not adversely affect economies of counties and communities in NM. **Died in the House Energy committee.**

HJM51, Rio Grande Wildlife Conservation Area, introduced by Representative Antonio Lujan, resolves that the Department should work with the BLM and State Land Office to maintain highest wildlife values possible while managing under multiple use and sustained yield. Designated as the upper Rio Grande – Taos Plateau.

SJM67, Forest land management plans reviews and issues, introduced by Senator Asbill, directs a review of Game and Fish cooperation with Forest Service to coordinate efforts to maximize the effectiveness of forest land management plans.