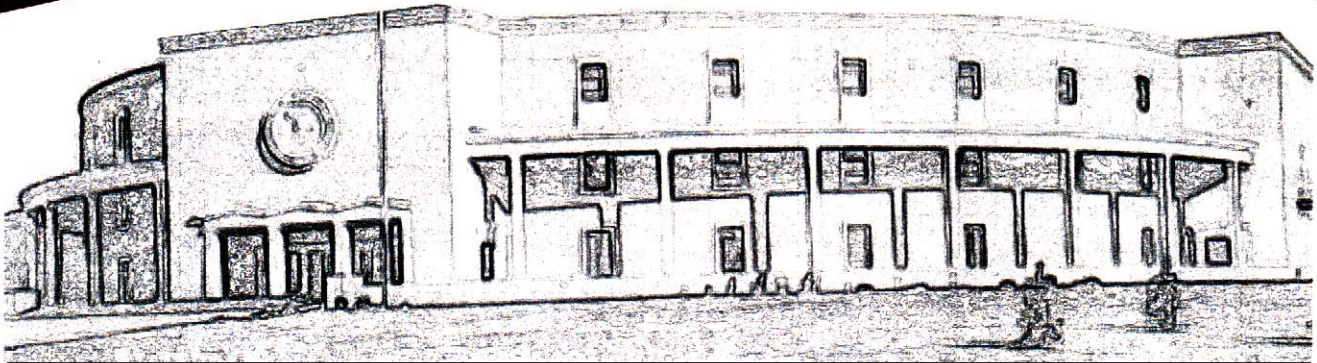


# LEGISLEADER



48th Legislative Session - February 26, 2007 - Volume VIII

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!*

## Legislation on Eminent Domain, Minimum Wage and Worker's Compensation Taking Shape

### EMINENT DOMAIN

The Senate Judiciary committee met on Saturday, February 24th and passed the following bills:

**SJR 3:** Introduced by Senator Lee Rawson- This legislation would send to the voters a proposed amendment to Article 2, Sec 20 of the Constitution of New Mexico to specifically allow for the taking of private property upon payment of just compensation by public agencies when necessary for the possession, occupation or enjoyment of land by the public at large and by public utilities, pipeline common carriers or those seeking to put water to beneficial use. The Resolution specifically prohibits the taking

of private property for use by a private commercial enterprise for economic development or any other private use, except with the consent of the owner, and prohibits the taking of private property from one owner to be transferred to another, on the grounds that the public will benefit from a more profitable private use.

**SB 401:** Introduced by Senator Neville- This legislation was derived as a result of the Governor's Task Force on Eminent Domain. The Urban Development Law and the Municipal Redevelopment Code would

be amended to eliminate the authorization to use eminent

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### 48th Legislative Session -

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domain powers. The legislation is scheduled for the Senate.

The companion bill **HB 393** was amended in House Judiciary. Representative Youngberg introduced an amendment that allows municipalities to acquire property by eminent domain to correct obsolete or impractical planning and platting of subdivisions. That power would apply only to property that was platted prior to 1975, has remained vacant and unimproved, and threatens the health and safety of persons or property due to erosion, flooding, lack of roads or unsuitable topography. The vote passed the committee by a count of 9-2 and then went before the House Floor, passing by a count of 62-5. We can expect the same amendment to be introduced for SB 401 once it reaches the House. This legislation will now go to the Senate for consideration.

**SB 469:** Introduced by Senator Michael Sanchez- This legislation would place a limitation on municipalities to exercise eminent domain powers within its boundaries and deletes the authorization within its planning and platting jurisdiction. The legislation is now before the Senate Floor.

**SB 693:** Introduced by Senator Michael Sanchez- This legislation would require that before approving the final plat for a subdivision containing five or more parcels, any one of which is two acres or less in size, the

board of county commissioners shall require that the subdivider provide a copy of a permit obtained from the state engineer, issued pursuant to Section 72-5-1, 72-5-23 or 72-5-24 NMSA 1978, or if the subdivision is located within a declared underground water basin, provide a copy of a permit obtained from the state engineer issued pursuant to those sections or to Section 72-12-3 or 72-12-7 NMSA 1978 for the subdivision water use. In acting on the permit application, the state engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses. The board of county commissioners shall not approve the final plat unless the state engineer has so issued a permit for the subdivision water use. There is no appropriation attached to this legislation. SB 693 is now before the Senate Floor.

**HB 159:** Representative Anderson - If approved, this legislation would become effective July 1, 2007. The power of eminent domain is limited to instances authorized by the state and for a public use. If the property is a person's principal dwelling, a comparable replacement dwelling is required unless the person prefers monetary compensation in the amount that would be necessary to purchase a comparable dwelling. A clear and

convincing evidence standard is established by which the state or political subdivision must prove that the taking is necessary to eliminate a threat to public health or safety, or that the property is abandoned, and there is no reasonable alternative. Attorneys fees may be awarded to the landowner who prevails in an action contesting a taking, but not to the state or political subdivision that is challenged.

**HJR 1:** Representative Anderson - The legislation would send to the voters a proposal to amend the New Mexico State Constitution. A limitation on the use of eminent domain would be placed for benefit of private commercial enterprises to public uses. Public uses is 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. The bill also includes action taken to mitigate health or safety threats from structures or activities on or in property. Except for public uses, private property cannot be taken by private commercial enterprises for economic development or other private use unless the owner consents, even if the public will benefit from a more profitable use of the property. This legislation was also scheduled to go before House Judiciary. When HB 393 was amended, Representative Anderson requested a table for his legislation.

## **MINIMUM WAGE**

The House Business and Industry (B&I) committee met on Sunday, February 25th to hear **HB 759**, introduced by Speaker of the House Ben Lujan and **SB 324** by Senate Pro Tem, Ben Altimirano. As previously reported, SB 324 with agriculture exemptions, a pre-emption clause and no indexing was

amended in the House Labor Committee. The committee amended the bill to mirror HB 759. On Feb. 26, the B&I committee proposed a mock up which reinstated the exemptions and the bill received a do pass from the committee.

## **WORKERS' COMP**

**HB 80-** Representative Lujan - The legislation repeals the

exemption that farmers and ranchers currently have. The legislation went before the House Business and Industry committee and was held over so that the proponents of the bill could address the concerns of the agriculture industry, (which already carries liability policies) and the committee. At this time, we have not heard from the proponents of the bill.

**To view the entire text of any  
bill, log on to  
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