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HOUSE BILL 92

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Doreen Y. Gallegos and Susan K. Herrera

AN ACT

RELATING TO WATER; ESTABLISHING THE SAFE DRINKING WATER TESTING FUND; INCREASING FEES; PROVIDING FOR DUTIES OF THE TAXATION AND REVENUE DEPARTMENT; REQUIRING REPORTING AND WATER TESTING.

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

SECTION 1. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended by Laws 2019, Chapter 47, Section 1 and by Laws 2019, Chapter 53, Section 10 and also by Laws 2019, Chapter 270, Section 1) is amended to read:

"7-1-2. **APPLICABILITY.**--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

- (1) Income Tax Act;

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- 1 (2) Withholding Tax Act;
- 2 (3) Oil and Gas Proceeds and Pass-Through
- 3 Entity Withholding Tax Act;
- 4 (4) Gross Receipts and Compensating Tax Act,
- 5 Interstate Telecommunications Gross Receipts Tax Act and Leased
- 6 Vehicle Gross Receipts Tax Act;
- 7 (5) Liquor Excise Tax Act;
- 8 (6) Local Liquor Excise Tax Act;
- 9 (7) any municipal local option gross receipts
- 10 tax or municipal compensating tax;
- 11 (8) any county local option gross receipts tax
- 12 or county compensating tax;
- 13 (9) Special Fuels Supplier Tax Act;
- 14 (10) Gasoline Tax Act;
- 15 (11) petroleum products loading fee, which fee
- 16 shall be considered a tax for the purpose of the Tax
- 17 Administration Act;
- 18 (12) Alternative Fuel Tax Act;
- 19 (13) Cigarette Tax Act;
- 20 (14) Estate Tax Act;
- 21 (15) Railroad Car Company Tax Act;
- 22 (16) Investment Credit Act, rural job tax
- 23 credit, Laboratory Partnership with Small Business Tax Credit
- 24 Act, Technology Jobs and Research and Development Tax Credit
- 25 Act, Film Production Tax Credit Act, Affordable Housing Tax

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1 Credit Act and high-wage jobs tax credit;
2 (17) Corporate Income and Franchise Tax Act;
3 (18) Uniform Division of Income for Tax
4 Purposes Act;
5 (19) Multistate Tax Compact;
6 (20) Tobacco Products Tax Act;
7 (21) the telecommunications relay service
8 surcharge imposed by Section 63-9F-11 NMSA 1978, which
9 surcharge shall be considered a tax for the purposes of the Tax
10 Administration Act; ~~and~~
11 (22) the Insurance Premium Tax Act; and
12 (23) the Health Care Quality Surcharge Act;
13 B. the administration and enforcement of the
14 following taxes, surtaxes, advanced payments or tax acts as
15 they now exist or may hereafter be amended:
16 (1) Resources Excise Tax Act;
17 (2) Severance Tax Act;
18 (3) any severance surtax;
19 (4) Oil and Gas Severance Tax Act;
20 (5) Oil and Gas Conservation Tax Act;
21 (6) Oil and Gas Emergency School Tax Act;
22 (7) Oil and Gas Ad Valorem Production Tax Act;
23 (8) Natural Gas Processors Tax Act;
24 (9) Oil and Gas Production Equipment Ad
25 Valorem Tax Act;

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1 (10) Copper Production Ad Valorem Tax Act;

2 (11) any advance payment required to be made
3 by any act specified in this subsection, which advance payment
4 shall be considered a tax for the purposes of the Tax
5 Administration Act;

6 (12) Enhanced Oil Recovery Act;

7 (13) Natural Gas and Crude Oil Production
8 Incentive Act; and

9 (14) intergovernmental production tax credit
10 and intergovernmental production equipment tax credit;

11 C. the administration and enforcement of the
12 following taxes, surcharges, fees or acts as they now exist or
13 may hereafter be amended:

14 (1) Weight Distance Tax Act;

15 (2) the workers' compensation fee authorized
16 by Section 52-5-19 NMSA 1978, which fee shall be considered a
17 tax for purposes of the Tax Administration Act;

18 (3) Uniform Unclaimed Property Act (1995);

19 (4) 911 emergency surcharge and the network
20 and database surcharge, which surcharges shall be considered
21 taxes for purposes of the Tax Administration Act;

22 (5) the solid waste assessment fee authorized
23 by the Solid Waste Act, which fee shall be considered a tax for
24 purposes of the Tax Administration Act;

25 (6) the ~~[water conservation]~~ safe drinking

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1 water testing fee imposed by Section 74-1-13 NMSA 1978, which
2 fee shall be considered a tax for the purposes of the Tax
3 Administration Act; and

4 (7) the gaming tax imposed pursuant to the
5 Gaming Control Act; and

6 D. the administration and enforcement of all other
7 laws, with respect to which the department is charged with
8 responsibilities pursuant to the Tax Administration Act, but
9 only to the extent that the other laws do not conflict with the
10 Tax Administration Act."

11 SECTION 2. Section 74-1-13 NMSA 1978 (being Laws 1993,
12 Chapter 317, Section 2, as amended) is amended to read:

13 "74-1-13. [~~WATER CONSERVATION FEE~~] SAFE DRINKING WATER
14 TESTING FUND--IMPOSITION OF FEES--DEFINITIONS.--

15 A. There is imposed on every person who operates a
16 public water supply system a [~~water conservation~~] safe drinking
17 water testing fee in an amount equal to [~~three cents (\$.03)~~]
18 five cents (\$.05) per thousand gallons of water produced [~~on~~
19 ~~which the fee imposed by this subsection has not been paid~~].

20 B. The "[~~water conservation~~] safe drinking water
21 testing fund" is created in the state treasury and shall be
22 administered by the department. The fund shall consist of
23 [~~water conservation~~] fees collected pursuant to this section.
24 Balances in the fund at the end of any fiscal year shall not
25 revert to the general fund but shall accrue to the credit of

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1 the fund. Earnings on the fund shall be credited to the fund.

2 C. Money in the [~~water conservation~~] safe drinking
3 water testing fund is appropriated to the department for
4 administration of a public water supply program to:

5 (1) test public water supplies for the
6 contaminants required to be tested for drinking water, pursuant
7 to the provisions of the federal Safe Drinking Water Act [~~as~~
8 ~~amended~~] and rules promulgated by the department pursuant to
9 the Environmental Improvement Act, and collect chemical
10 compliance samples as required by those provisions of the
11 federal act or state rules;

12 (2) perform vulnerability assessments that
13 will be used to assess a public water supply's susceptibility
14 to those contaminants; and

15 (3) implement [~~new~~] requirements of the
16 Utility Operators Certification Act and provide training for
17 all public water supply operators.

18 D. The taxation and revenue department shall
19 provide by [~~regulation~~] rule for the manner and form of
20 collection of the [~~water conservation fee~~] safe drinking water
21 testing fee. All [~~water conservation~~] safe drinking water
22 testing fees collected by the taxation and revenue department,
23 less the administrative fee withheld pursuant to Section
24 7-1-6.41 NMSA 1978, shall be deposited in the [~~water~~
25 ~~conservation~~] safe drinking water testing fund.

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1 E. The fee imposed by this section shall be
2 administered in accordance with the provisions of the Tax
3 Administration Act and shall be paid to the taxation and
4 revenue department by each person who operates a public water
5 supply system in the manner required by the taxation and
6 revenue department on or before the twenty-fifth day of the
7 month following the month in which the water is produced.

8 F. Each operator of a public water supply system
9 shall register and comply with the provisions of Section 7-1-12
10 NMSA 1978 and furnish such information as may be required by
11 the taxation and revenue department.

12 G. The department shall compile a list of the
13 contaminants that require testing pursuant to Paragraph (1) of
14 Subsection C of this section. The list shall be compiled no
15 less than once every twelve months and include the contaminants
16 that will be tested in the subsequent twelve months. The
17 department shall establish by rule procedures to compile the
18 list and to determine which contaminants that require testing
19 will be tested in the subsequent twelve months. The
20 determination of which contaminants will be tested shall
21 include consideration of the availability of funds in the
22 [~~water conservation~~] safe drinking water testing fund, the
23 needs of the public water supplies being tested for additional
24 contaminants and public health and safety.

25 H. By November 1 of each year, the department shall

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1 prepare and make available to the public an annual summary of
2 safe drinking water testing fund revenue and expenditures for
3 the prior fiscal year.

4 I. The department shall not use the safe drinking
5 water testing fund to cover sampling and analysis services for
6 increased sampling or testing required of a public water supply
7 system as a result of violations of the federal Safe Drinking
8 Water Act or rules promulgated by the department pursuant to
9 the Environmental Improvement Act.

10 J. If sampling or analysis services are limited or
11 discontinued pursuant to Subsection I of this section, the
12 public water supply system shall be responsible for the
13 collection, analysis and payment of those samples and providing
14 the results of the analysis to the department in accordance
15 with the federal Safe Drinking Water Act and rules promulgated
16 by the department pursuant to the Environmental Improvement
17 Act.

18 [~~H.~~] K. As used in this section:

19 (1) "person" means any individual or legal
20 entity and also means, to the extent permitted by law, any
21 federal, state or other governmental unit or subdivision or an
22 agency, department or instrumentality thereof; and

23 (2) "public water supply system" means a
24 system that provides piped water to the public for human
25 consumption and that has at least fifteen service connections

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1 or regularly services an average of at least twenty-five
2 individuals at least sixty days per year."

3 SECTION 3. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2021.

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