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HOUSE BILL 451

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Paul C. Bandy and Steven P. Neville

AN ACT

RELATING TO THE COURTS; CREATING DISTRICT WATER COURTS;
PROVIDING FOR ADDITIONAL JUDGESHIPS IN THE THIRD AND ELEVENTH
JUDICIAL DISTRICTS; PROVIDING FOR THE ESTABLISHMENT OF
ADDITIONAL DISTRICT WATER COURTS, IN THE DISCRETION OF THE
SUPREME COURT; MAKING APPROPRIATIONS.

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

SECTION 1. Section 34-6-6 NMSA 1978 (being Laws 1968,
Chapter 69, Section 9, as amended) is amended to read:

"34-6-6. JUDGES--THIRD JUDICIAL DISTRICT.--There shall be
[~~eight~~] nine district judges in the third judicial district."

SECTION 2. Section 34-6-14 NMSA 1978 (being Laws 1968,
Chapter 69, Section 17, as amended) is amended to read:

"34-6-14. JUDGES--ELEVENTH JUDICIAL DISTRICT.--There
shall be [~~eight~~] nine district judges in the eleventh judicial

underscoring material = new
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1 district. The judges of divisions one, three, four, six and
2 eight and the judge of the San Juan district water court shall
3 reside and maintain their principal offices in San Juan county.
4 The judges of divisions two, five and seven shall reside and
5 maintain their principal offices in McKinley county."

6 SECTION 3. Section 38-3-9 NMSA 1978 (being Laws 1985,
7 Chapter 91, Section 1) is amended to read:

8 "38-3-9. PEREMPTORY CHALLENGE TO A DISTRICT JUDGE.--

9 A. A party to an action or proceeding, civil or
10 criminal, including proceedings for indirect criminal contempt
11 arising out of oral or written publications, except actions or
12 proceedings for constructive and other indirect contempt or
13 direct contempt shall have the right to exercise a peremptory
14 challenge to the district judge before whom the action or
15 proceeding is to be tried and heard, whether ~~[he]~~ the judge be
16 the resident district judge or a district judge designated by
17 the resident district judge, except by consent of the parties
18 or their counsel. After the exercise of a peremptory
19 challenge, that district judge shall proceed no further. Each
20 party to an action or proceeding may excuse only one district
21 judge pursuant to the provisions of this statute. In all
22 actions brought under the ~~[Workmen's]~~ Workers' Compensation Act
23 [~~(52-1-1 to 52-1-69 NMSA 1978)~~], the employer and the insurance
24 carrier of the employer shall be treated as one party when
25 exercising a peremptory challenge to the judge under this

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1 statute. The rights created by this section are in addition to
2 any arising under Article 6 of the constitution of New Mexico.

3 B. The judges of the district water courts shall
4 not be subject to peremptory challenges pursuant to this
5 section when presiding over water cases."

6 SECTION 4. A new section of Chapter 34, Article 6 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] DISTRICT WATER COURTS.--

9 A. A district water court is established in each of
10 the following judicial districts:

11 (1) the "lower Rio Grande district water
12 court" is established in the third judicial district in Dona
13 Ana county; and

14 (2) the "San Juan district water court" is
15 established in the eleventh judicial district in San Juan
16 county.

17 B. Additional district water courts may be
18 established at the direction of the supreme court to facilitate
19 the hearing of water cases in each major water basin in the
20 state.

21 C. Each district water court shall be a civil court
22 that shall hear all cases relating to water in the judicial
23 district in which the district water court is located, as well
24 as other civil cases. Each district water court shall give
25 priority to water cases.

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1 D. District water court judges shall be nominated,
2 appointed and elected in the same manner as other district
3 judges.

4 E. Upon taking office, a district water court judge
5 shall devote substantial time to the study of water law and
6 other water-related subjects, especially as that study relates
7 to the arid western regions of the United States. District
8 water court judges may confer and consult with other district
9 water court judges about issues of water law.

10 F. A district water court judge shall not permit ex
11 parte communications, but a district water court judge may hold
12 informal discussion and planning sessions that shall be open to
13 all parties, members of the public and government agencies,
14 with advance notice to the public.

15 G. A district water court judge's use of water,
16 ownership of water rights or interest in property shall not
17 require disqualification from water cases under Article 6,
18 Section 18 of the constitution of New Mexico.

19 H. A district water court judge may request a
20 special master, a district water court judge from another
21 district or a judge appointed by the supreme court to hear
22 particular matters when the district water court judge might be
23 perceived to have a significant conflict of interest."

24 SECTION 5. TEMPORARY PROVISION--DISTRICT JUDGES--
25 APPOINTMENTS.--The additional district judgeships provided for

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1 in this 2019 act shall be filled by appointment by the governor
2 pursuant to the provisions of Article 6 of the constitution of
3 New Mexico.

4 SECTION 6. APPROPRIATIONS.--

5 A. The following amounts are appropriated from the
6 general fund to the following agencies for expenditure in
7 fiscal year 2020 for the following purposes:

8 (1) four hundred fifty thousand dollars
9 (\$450,000) to the third judicial district court for salaries
10 and benefits and furniture, supplies and equipment for one
11 additional district judge and support staff; and

12 (2) two hundred fifty thousand dollars
13 (\$250,000) to the eleventh judicial district court for salaries
14 and benefits and furniture, supplies and equipment for one
15 additional district judge and support staff.

16 B. Any unexpended or unencumbered balance remaining
17 at the end of fiscal year 2020 shall revert to the general
18 fund.