

SENATE BILL 169

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

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AN ACT

RELATING TO WATER; ENACTING THE WATER PROJECT FINANCE ACT;
PROVIDING FOR THE FUNDING OF WATER PROJECTS; CREATING A BOARD;
CREATING THE WATER TRUST FUND AND THE WATER PROJECT FUND;
MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. SHORT TITLE. -- This act may be cited as the
"Water Project Finance Act".

Section 2. FINDINGS AND PURPOSE. --

A. The legislature finds that:

(1) New Mexico is in a desert where water is
a scarce resource;

(2) the economy depends on reasonable and
fair allocation of water for all purposes;

(3) the public welfare depends on efficient

1 use and conservation of water;

2 (4) New Mexico must comply with its delivery
3 obligations under interstate compacts; and

4 (5) public confidence and support for water
5 use efficiency and conservation is based on a reasonable
6 balance of investments in water infrastructure and management.

7 B. The purpose of the Water Project Finance Act is
8 to provide for water use efficiency, resource conservation and
9 protection and fair distribution and allocation of the scarce
10 resource to all users.

11 Section 3. DEFINITIONS.--As used in the Water Project
12 Finance Act:

13 A. "authority" means the New Mexico finance
14 authority;

15 B. "board" means the water trust board;

16 C. "political subdivision" means a municipality,
17 county, irrigation district, conservancy district, acequia or
18 soil and water conservation district; and

19 D. "qualifying water project" means a project
20 authorized by the board for funding by the authority.

21 Section 4. WATER TRUST BOARD CREATED.--

22 A. The "water trust board" is created. The board
23 is composed of the following eighteen ex-officio members or
24 their designees:

25 (1) the governor, who shall serve as the

1 chairman of the board;

2 (2) the state engineer;

3 (3) the chairman of the interstate stream
4 commi ssi on;

5 (4) the chairman of the acequia commission;

6 (5) the secretary of environment;

7 (6) the secretary of finance and
8 admi ni stration;

9 (7) the secretary of energy, minerals and
10 natural resources;

11 (8) the director of the New Mexico department
12 of agri cul ture;

13 (9) the executive director of the New Mexico
14 municipal league;

15 (10) the executive director of the New Mexico
16 association of counties;

17 (11) the presidents of the boards of
18 directors of the:

19 (a) Carlsbad irrigation district;

20 (b) Elephant Butte irrigation district;

21 (c) Santa Cruz irrigation district;

22 (d) Fort Sumner irrigation district;

23 (e) mi ddle Rio Grande conservancy
24 district; and

25 (f) Pecos valley artesian conservancy

1 district;

2 (12) the executive director of the authority;
3 and

4 (13) the chairman of the soil and water
5 conservation commission.

6 B. The board shall meet at the call of the
7 chairman or whenever three members submit a request in writing
8 to the chairman, but not less often than once each calendar
9 year. A majority of members constitutes a quorum for the
10 transaction of business. The affirmative vote of at least a
11 majority of a quorum present shall be necessary for an action
12 to be taken by the board.

13 Section 5. BOARD--DUTIES.--The board shall:

14 A. adopt rules governing terms and conditions of
15 grants or loans made from the water project fund, giving
16 priority to projects that have urgent needs, and matching
17 contributions from federal or local funding sources;

18 B. authorize water projects to the authority that
19 are for:

20 (1) storage, conveyance or delivery of water
21 to end users;

22 (2) restoration of endangered species
23 habitat;

24 (3) restoration and management of watersheds;
25 and

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1 (4) flood prevention.

2 Section 6. AUTHORITY--DUTIES.--The authority shall:

3 A. provide staff support for the board;

4 B. develop application procedures and forms for
5 political subdivisions to apply for grants and loans from the
6 water project fund; and

7 C. make loans or grants to political subdivisions
8 for qualifying water projects.

9 Section 7. CONDITIONS FOR GRANTS AND LOANS.--

10 A. Grants and loans shall be made only to
11 political subdivisions that:

12 (1) agree to operate and maintain the water
13 project so that it will function properly over the structural
14 and material design life, which shall not be less than twenty
15 years;

16 (2) require the contractor of the
17 construction project to post a performance and payment bond in
18 accordance with the requirements of Section 13-4-18 NMSA 1978;

19 (3) provide a written assurance, signed by an
20 attorney, that the political subdivision has proper title,
21 easements and rights of way to the property upon or through
22 which the water project proposed for funding is to be
23 constructed or extended;

24 (4) meet the requirements of the financial
25 capability set by the board to ensure sufficient revenues to

1 operate and maintain the water project for its useful life and
2 to repay the loan; and

3 (5) agree to properly maintain financial
4 records and to conduct an audit of the project's financial
5 records.

6 B. Plans and specifications for a water project
7 shall be approved by the authority before grant or loan
8 disbursements to pay for construction costs are made to a
9 political subdivision and shall be made only for eligible
10 items, which include:

- 11 (1) to match federal and local cost shares;
- 12 (2) engineering feasibility reports;
- 13 (3) contracted engineering design;
- 14 (4) inspection of construction;
- 15 (5) special engineering services;
- 16 (6) environmental or archaeological surveys;
- 17 (7) construction;
- 18 (8) land acquisition;
- 19 (9) easements and rights of way; and
- 20 (10) legal costs and fiscal agent fees.

21 Section 8. WATER TRUST FUND--CREATED--INVESTMENT--
22 DISTRIBUTION.--

23 A. The "water trust fund" is created in the state
24 treasury. The fund shall consist of money appropriated,
25 donated or otherwise accrued to the fund. Money in the fund

1 shall be invested by the state investment officer as land
2 grant permanent funds are invested pursuant to Chapter 6,
3 Article 8 NMSA 1978. Earnings from investment of the fund
4 shall be credited to the fund. Money in the fund shall not be
5 expended for any purpose, but an annual distribution shall be
6 made to the water project fund in accordance with Subsection B
7 of this section.

8 B. On July 1 of fiscal year 2003 and on July 1 of
9 each fiscal year thereafter, an annual distribution shall be
10 made from the water trust fund to the water project fund in
11 the amount of four million dollars (\$4,000,000) until that
12 amount is less than an amount equal to two and four-tenths
13 percent of the average of the year-end market values of the
14 water trust fund for the immediately preceding five calendar
15 years. Thereafter, the amount of the annual distribution
16 shall be two and four-tenths percent of the average of the
17 year-end market values of the water trust fund for the
18 immediately preceding five calendar years.

19 Section 9. WATER PROJECT FUND--CREATED--PURPOSE. --

20 A. The "water project fund" is created in the New
21 Mexico finance authority and shall consist of distributions
22 made to the fund from the water trust fund and money from
23 payments of principal of and interest on loans shall be
24 deposited in the water project fund. The fund shall also
25 consist of any other money appropriated, distributed or

1 otherwise allocated to the fund for the purpose of supporting
2 water projects pursuant to provisions of the Water Project
3 Finance Act. The fund shall be administered by the authority.
4 Income from investment of the water project fund shall be
5 credited to the fund. Balances in the fund at the end of any
6 fiscal year shall not revert to the general fund. The water
7 project fund may consist of such sub-accounts as the authority
8 deems necessary to carry out the purposes of the fund. The
9 authority may establish procedures and adopt rules as required
10 to administer the fund.

11 B. Beginning in fiscal year 2003, money in the
12 water project fund is appropriated to the New Mexico finance
13 authority to finance qualifying water projects pursuant to the
14 Water Project Finance Act.

15 Section 10. REPORT TO LEGISLATURE. --The board shall
16 report to the legislature no later than October 1 of each
17 calender year the total expenditures from the water project
18 fund, their purposes, an analysis of the accomplishments of
19 the expenditures and recommendations for legislative action.

20 Section 11. APPROPRIATION. --Eighty million dollars
21 (\$80,000,000) is appropriated from the general fund to the
22 water trust fund in fiscal year 2001 for expenditure in
23 subsequent fiscal years for purposes of the Water Project
24 Finance Act. Any unexpended or unencumbered balance remaining
25 at the end of a fiscal year shall not revert to the general

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1 fund.

2 Section 12. APPROPRIATION.--Twenty million dollars
3 (\$20,000,000) is appropriated from the general fund to the
4 water project fund in fiscal year 2001 for expenditures in
5 subsequent fiscal years for purposes of the Water Project
6 Finance Act. Any unexpended or unencumbered balance remaining
7 at the end of a fiscal year shall not revert to the general
8 fund.

9 Section 13. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect
11 immediately.

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