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HOUSE BILL 323

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Joe M Stell

AN ACT

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL OBLIGATION BONDS TO FUND THE WATER PROJECT FUND FOR WATER MANAGEMENT IMPROVEMENTS AND ACQUISITIONS; PROVIDING FOR A TAX LEVY FOR PAYMENT OF PRINCIPAL OF, INTEREST ON AND CERTAIN COSTS RELATED TO THE BONDS; REQUIRING APPROVAL OF THE REGISTERED VOTERS AT THE 2002 GENERAL ELECTION OF THE STATE; MAKING AN APPROPRIATION TO THE WATER TRUST FUND; 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 "2002 Water Project Fund General Obligation Bond Act".

Section 2. PURPOSE.--For the purpose of providing funds for capital expenditures as authorized in the 2002 Water Project Fund General Obligation Bond Act, general obligation

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1 indebtedness of the state is authorized for the purpose of
2 funding the water project fund.

3 Section 3. BOND TERMS. --

4 A. The state board of finance, except as limited
5 by the 2002 Water Project Fund General Obligation Bond Act,
6 shall determine the terms, covenants and conditions of bonds
7 issued pursuant to that act, including but not limited to:

8 (1) date or dates of issue, denominations and
9 maturities;

10 (2) principal amounts;

11 (3) rate or rates of interest; and

12 (4) provisions for redemption, including
13 premiums, registration and refundability, whether the bonds
14 are issued in one or more series, and other covenants relating
15 to the bonds and the issuance thereof.

16 B. The bonds shall be in such form as the state
17 board of finance determines with an appropriate series
18 designation and shall bear interest payable as set forth in
19 the resolution of the state board of finance.

20 C. Payment of the principal of the bonds shall
21 begin not more than two years after the date of their
22 issuance, and the bonds shall mature not later than ten years
23 after the date of their issuance. Both principal and interest
24 shall be payable in lawful money of the United States at the
25 office of the paying agent within or without the state as the

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1 state board of finance may direct.

2 D. The bonds shall be executed with the manual or
3 facsimile signature of the governor or the state treasurer,
4 and the seal of the state or a facsimile of the seal shall be
5 placed on each bond, except for any series of bonds issued in
6 book entry or similar form without the delivery of physical
7 securities.

8 E. The bonds shall be issued in accordance with
9 the provisions of the 2002 Water Project Fund General
10 Obligation Bond Act, the Supplemental Public Securities Act
11 and the Uniform Facsimile Signature of Public Officials Act
12 and may be issued in accordance with the Public Securities
13 Short-Term Interest Rate Act.

14 F. The full faith and credit of the state is
15 pledged for the prompt payment, when due, of the principal of
16 and interest on all bonds issued and sold pursuant to the 2002
17 Water Project Fund General Obligation Bond Act.

18 Section 4. EXPENDITURES. --The proceeds from the sale of
19 the bonds shall be expended solely for providing money to be
20 distributed for the purpose of funding the water project fund
21 in an amount not to exceed fifty million dollars (\$50,000,000)
22 and to pay expenses incurred under Section 6 of the 2002 Water
23 Project Fund General Obligation Bond Act. Any proceeds from
24 the sale of the bonds that are not required for this purpose
25 shall be used for the purpose of paying the principal of and

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1 interest on the bonds.

2 Section 5. SALE. --The bonds authorized under the 2002
3 Water Project Fund General Obligation Bond Act shall be sold
4 by the state board of finance at such time and in such manner
5 and amounts as the board may elect. The bonds may be sold at
6 private sale or at public sale, in either case at not less
7 than par plus accrued interest to the date of delivery. If
8 sold at public sale, the state board of finance shall publish
9 a notice of the time and place of sale in a newspaper of
10 general circulation in the state and may also publish the
11 notice in a recognized financial journal outside the state.
12 The required publications shall be made once each week for two
13 consecutive weeks prior to the date fixed for the sale, the
14 last publication thereof to be at least five days prior to the
15 date of the sale. The notice shall specify the amount,
16 denomination, maturity and description of the bonds to be
17 offered for sale and the place, date and hour at which the
18 sealed bids shall be received. At the time and place
19 specified in the notice, the state board of finance shall open
20 the bids in public and shall award the bonds to the bidder or
21 bidders offering the best price for the bonds. The state
22 board of finance may reject any or all bids and readvertise
23 and may waive any irregularity in a bid. All bids, except
24 that of the state, shall be accompanied by a deposit of two
25 percent of the principal amount of the bonds in a form

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1 acceptable to the state board of finance. The deposit of an
2 unsuccessful bidder shall be returned upon rejection of the
3 bid. The state board of finance may also sell the bonds or
4 any part of the bonds to the state treasurer or state
5 investment officer. The state treasurer or state investment
6 officer is authorized to purchase any of the bonds for
7 investment. The bonds are legal investments for any person or
8 board charged with the investment of any public funds and may
9 be accepted as security for any deposit of public money.

10 Section 6. EXPENSES. --The expenses incurred by the state
11 board of finance in or relating to the preparation and sale of
12 the bonds shall be paid out of the proceeds from the sale of
13 the bonds, and all rebate, penalty, interest and other
14 obligations of the state relating to the bonds and bond
15 proceeds under the Internal Revenue Code of 1986, as amended,
16 shall be paid from earnings on bond proceeds or other money of
17 the state, legally available for such payments.

18 Section 7. TAX LEVY. --To provide for the payment of the
19 principal of and interest on the bonds issued and sold
20 pursuant to the provisions of the 2002 Water Project Fund
21 General Obligation Bond Act, there shall be and there is
22 hereby imposed and levied during each year in which any of the
23 bonds are outstanding an ad valorem tax on all property in the
24 state subject to property taxation for state purposes
25 sufficient to pay the interest as it becomes due on the bonds,

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1 together with an amount sufficient to provide a sinking fund
2 to pay the principal of the bonds as it becomes due and, if
3 permitted by law, ad valorem taxes may be collected to pay
4 administrative costs incident to the collection of such taxes.
5 The taxes shall be imposed, levied, assessed and collected at
6 the times and in the manner that other property taxes for
7 state purposes are imposed, levied, assessed and collected.
8 It is the duty of all tax officials and authorities to cause
9 these taxes to be imposed, levied, assessed and collected.

10 Section 8. STATE TREASURER--DUTIES.--The state treasurer
11 shall keep separate accounts of all money collected pursuant
12 to the taxes imposed and levied pursuant to the provisions of
13 the 2002 Water Project Fund General Obligation Bond Act and
14 shall use this money only for the purposes of paying the
15 principal of and interest on the bonds as they become due and
16 any expenses relating thereto.

17 Section 9. IRREPEALABLE CONTRACT--AUTHORITY FOR
18 ISSUANCE.--An owner of bonds issued pursuant to the provisions
19 of the 2002 Water Project Fund General Obligation Bond Act
20 may, either at law or in equity, by suit, action or mandamus,
21 enforce and compel the performance of the duties required by
22 that act of any officer or entity mentioned in that act. The
23 provisions of that act constitute an irrevocable contract
24 with the owners of any of the bonds issued pursuant to that
25 act for the faithful performance of which the full faith and

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1 credit of the state is pledged. Without reference to any
2 other act of the legislature of the state, the 2002 Water
3 Project Fund General Obligation Bond Act is full authority for
4 the issuance and sale of the bonds authorized in that act, and
5 such bonds shall have all the qualities of investment
6 securities under the Uniform Commercial Code of the state,
7 shall not be invalid for any irregularity or defect in the
8 proceedings for the issuance and sale of the bonds and shall
9 be incontestable in the hands of bona fide purchasers or
10 holders thereof for value. All bonds issued under the
11 provisions of that act, and the interest thereon, are exempt
12 from taxation by the state and any subdivision or public body
13 thereof.

14 Section 10. PROJECTS. --The proceeds from the sale of
15 bonds issued under the provisions of the 2002 Water Project
16 Fund General Obligation Bond Act shall be distributed to the
17 water project fund for the purposes of carrying out the
18 provisions of the Water Project Finance Act.

19 Section 11. ELECTION. --

20 A. Bonds issued pursuant to the 2002 Water Project
21 Fund General Obligation Bond Act shall be submitted to the
22 registered voters of the state at the general election to be
23 held in November 2002, and, if they receive a majority of all
24 the votes cast thereon at such election, shall take effect
25 upon certification of the state canvassing board announcing

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1 the results of such election. No bonds shall be issued or
2 sold under the 2002 Water Project Fund General Obligation Bond
3 Act until the registered voters of this state have voted upon
4 and approved the bonds and property tax as provided in this
5 section. Any bonds issued under that act shall be issued
6 within thirty months from the date of such election.

7 B. The ballots used at the 2002 general election
8 shall contain substantially the following language:

9 "The 2002 Water Project Fund General Obligation
10 Bond Act authorizes the issuance and sale of water project
11 fund bonds. Shall the state be authorized to issue general
12 obligation bonds in an amount not to exceed fifty million
13 dollars (\$50,000,000) to fund the water project fund and
14 provide for a general property tax imposition and levy for the
15 payment of principal of, interest on and expenses incurred in
16 connection with the issuance of the bonds and the collection
17 of the tax as permitted by law?

18 For _____ Against _____".

19 C. The secretary of state shall include the
20 submission of the water project fund general obligation bond
21 to the people at the 2002 general election, and it shall be
22 included in the general election proclamation of each of the
23 county clerks. The secretary of state shall cause the 2002
24 Water Project Fund General Obligation Bond Act to be published
25 in full in at least one newspaper in each county of the state,

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1 if one is published therein, once each week, for four
2 successive weeks next preceding the general election as
3 required by the constitution of New Mexico.

4 Section 12. APPROPRIATION.--Fifty million dollars
5 (\$50,000,000) is appropriated from the general fund to the
6 water trust fund for expenditure in fiscal year 2003 and
7 subsequent fiscal years to carry out purposes of the Water
8 Project Finance Act. Any unexpended or unencumbered balance
9 remaining at the end of a fiscal year shall not revert to the
10 general fund.

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